



**Town of Surfside  
Special Town Commission Meeting  
MINUTES**

**January 24, 2013**

**7 p.m.**

Town Hall Commission Chambers - 9293 Harding Ave, 2<sup>nd</sup> Floor  
Surfside, FL 33154

**1. Opening**

**A. Call to Order**

Mayor Dietch called the meeting to order at 7:02 P.M.

**B. Roll Call of Members**

Town Clerk Sandra Novoa called the roll with the following members present: Mayor Dietch, Vice Mayor Karukin, Commissioner Olchyk and Commissioner Kligman. Commissioner Graubart was absent.

Attorney Nancy Stroud, Land Use Special Counsel and Attorney William Bloom, Title Expert.

**C. Pledge of Allegiance**

Chief of Police David Allen led the Pledge of Allegiance

**2. Quasi-Judicial Hearings**

*Please be advised that the following items on the Agenda are Quasi-Judicial in nature. If you wish to object or comment upon an item, please complete a Public Speaker's Card indicating the agenda item number on which you would like to comment. You must be sworn before addressing the Town Commission and you may be subject to cross-examination. If you refuse to submit to cross-examination, the Town Commission will not consider your comments in its final deliberation. Please also disclose any Ex-Parte communications you may have had with any members of the Town Commission. Town Commission members must also do the same.*

**A. Chateau Site Plan and Conditional Use Application – Roger M. Carlton, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA ("TOWN") APPROVING THE CONDITIONAL USE APPLICATION SUBMITTED BY CHATEAU OCEAN, LLC (THE "APPLICANT"), PURSUANT TO SECTION 90-23-2 OF THE TOWN ZONING CODE TO PERMIT THE DEVELOPMENT OF PRIVATE OUTDOOR DINING FACILITIES, LOBBY BAR, AND POOLSIDE BAR, AND THE SITE PLAN APPLICATION, PURSUANT TO SECTION 90-41 ET. SEQ. OF THE TOWN ZONING CODE TO PERMIT A MULTIFAMILY RESIDENTIAL CONDOMINIUM BUILDING WITH UP TO EIGHTY-FIVE (85) RESIDENTIAL UNITS, INCLUDING A ROOF TOP DECK, POOLS, 180 PARKING SPACES, TANDEM PARKING, AND 24-HOUR VALET**

**PARKING, TO BE KNOWN AS “CHATEAU OCEAN”, PER PLANS ON FILE DATED JANUARY 10, 2013, CONSISTING OF ONE 12-STORY BUILDING LOCATED AT THE SOUTHEAST CORNER OF COLLINS AVENUE AND 94th STREET, CURRENTLY WITH THREE STREET ADDRESSES OF 9349, 9365 AND 9379 COLLINS AVENUE, SURFSIDE, FL, SUBJECT TO CERTAIN CONDITIONS WHICH SHALL BE INCLUDED IN A RECORDED COVENANT RUNNING WITH THE LAND, AND PROVIDING FOR A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.**

Town Clerk Sandra Novoa swore in everyone wishing to speak in favor or against the item.

Town Attorney Linda Miller spoke about the process and asked the Town Commission if anyone had ex-parte communications with the Applicant or any objector.

Town Clerk Sandra Novoa stated she received copies of ex-parte communication from Commissioner Graubart.

Commissioner Kligman stated that she met with the developer about four (4) months ago but did not discuss the project.

Commissioner Olchyk stated that she met with the developer a few months ago as well and saw them again when they presented the project in a meeting in the building in which she resides.

Vice Mayor Karukin stated that he was requested to meet with the applicant about four (4) months ago but declined and was also contacted by a resident that lives nearby.

Mayor Dietch stated that he met with members of the development team and he also had communication with various Town residents.

Town Planner Sarah Sinatra presented the project to the Town Commission with the staff recommendation.

Commissioner Olchyk asked the Town Planner if this building was higher than the Surf Club that was just approved. Sarah Sinatra Town Planner responded that the Surf Club is actually two feet higher. She asked if the building was going to be the same height as the neighboring Marbella and Azure buildings. Town Planner Sarah Sinatra stated that the Marbella building was built before 1999 and the Azure building after 1999 which makes a difference with the Town Zoning Code and she would be unable to speak for those projects regarding FDEP requirements or why buildings did not use the code provision that allows building height measurement to begin at the wave crest level set by the State. She showed a graphic to explain how height is calculated.

Building Official Eddie Rojas was sworn in. He stated that he researched the Marbella and Azure projects and he found the projects did not take advantage of the code provision stated before by the Town Planner.

Commissioner Olchyk asked why the staff is recommending Option 1 rather than Option 2 for the easement. Town Planner Sarah Sinatra stated that there are only four (4) properties in Town along the east side of Collins Avenue that have not utilized the larger space envisioned in Option 2. She explained that for consistency purposes the expanded area in Option 2 was not necessary. Because the Town has always utilized that hard pack as a walking path and the top of the dune, that is the only area staff believes should be included in an easement.

Vice Mayor Karukin spoke about the building height as well and thanked the Town Planner for her previous explanation. He asked why there were two different numbers under the Florida Department of Environmental Protection (FDEP) Guidelines for Design Elevation; they mention 18.2 and 6.8 feet. He would like to know why one and not the other. Bob McSweeney, Civil Engineer, responded to Commissioner Karukin's question.

Vice Mayor Karukin asked what the Town has required in the past regarding ownership percentages disclosure. Town Planner Sarah Sinatra explained that the only time that this was previously required was during the Surf Club application and at that time it was 20 percent or more.

Vice Mayor Karukin stated that one of the conditions speaks about a sculpture and he would not like for it to be a geometric sculpture and if the Town Commission could have a say in what goes there. Town Manager Roger M. Carlton stated that the sculpture design will have to go in front of the Planning and Zoning Board for approval.

Vice Mayor Karukin asked for clarification on a provision on page 7, section 90.50.2(3) Roof Deck Provisions that states that it exceeds requirements. Town Planner Sarah Sinatra explained that the code establishes a minimum and they are providing a greater setback.

Commissioner Kligman asked about the easement area. It is her understanding that the developers will be doing some work in 94<sup>th</sup> street and she would like to know if that public access to the beach will remain. Town Planner Sarah Sinatra responded affirmatively.

Commissioner Kligman asked if the developers have discussed with the Town what they would use instead of the passive ponds and walkways if that is declined by FDEP. Outside Council Nancy Stroud stated that if that is declined by FDEP, a site plan amendment and the new design would have to come back to the Town Commission for approval.

Commissioner Kligman concurred that the Surf Club was two feet higher than this project and asked if the Beach House was also higher. Town Planner Sarah Sinatra stated that the Beach House was 5 feet lower.

Commissioner Kligman expressed her concerns about the easement issues. Niesen Kasdin representing the applicant stated that they agreed to Option 1.

Vice Mayor Karukin asked where the ingress and egress of traffic would be. Town Planner Sarah Sinatra referred the question to the Applicant's traffic engineer who explained how traffic would flow in and out of the property.

Mayor Dietch stated that if the project is approved the construction drawings have to be consistent with the South Florida Building Code, so there are more protections beyond the Town Commission requirements.

Neisen Kasdin representing the applicant presented the project to the Town Commission.

Vice Mayor Karukin asked where the ingress and egress of traffic is in the plans. Mr. Kasdin answered his concerns and explained that all of the circulation will stay in the property.

Commissioner Kligman asked if the developer has agreed to the Option 1 easement. Mr. Kasdin responded affirmatively. She referred to page 105 of the agenda packet "Recommendations" and asked if those recommendations have been accepted by the developer of the project. Mr. Kasdin responded that those recommendations were related to the existence of lifts in the garage and they are no longer utilizing lifts.

Mayor Dietch asked what the estimated cost of construction is. Mr. Kasdin responded \$60 million.

Mayor Dietch referred to page 30 of the agenda packet, condition of approval # 5 related to recycling. He would like for the developer to agree to provide the Town with documentation of achieving 80% recycling of demolition materials. Mr. Kasdin representing the developer agreed. Mayor Dietch referred to page 31, condition of approval # 14 that references MD-PERA, he stated that PERA no longer exists and has morphed into another entity and the initials are RER.

Mayor Dietch asked the Town to make sure that all the required parking is provided before issuing the Certificate of Occupancy (CO).

Mayor Dietch opened the public hearing.

Eli Tourgeman, President of the Downtown Business Association of Surfside, spoke in favor of the project.

Silvia Coltrane spoke in favor of the project and thanked Sarah Sinatra Town Planner for her presentation.

Pablo Clausell asked a question regarding the advertisement and the presentation. He spoke about the use of the hardpack and the impact that it would have on the residents' future if they approve Option 1 rather than Option 2.

Louis Cohen, representing Marbella, spoke in favor of the project.

Allan Yarkin, representing Azure, spoke in favor of the project.

Commissioner Kligman asked Sarah Sinatra to explain what an Easement is. Special Counsel to the Town William Bloom of Holland & Knight explained that an easement is a covenant running with the land that will give the public through the Town, the right to use that specific area in perpetuity subject to the conditions set forth in the easement. In this case there is an obligation on the Town to maintain the easement area; there is an obligation on the Town and the Developer not to obstruct the easement area.

There being no one else wishing to speak on the item, Mayor Dietch closed the Public Hearing.

Commissioner Kligman asked the Town Clerk if there were any records of anyone against the development. Town Clerk Sandra Novoa responded in the negative.

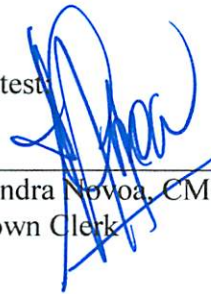
Commissioner Olchyk made a motion to approve the project as presented with the understanding that there is no request for variances and that the Applicant fulfills all the Code requirements and obeys all the rules and regulations. Mayor Dietch made a friendly amendment for the Applicant to include documentation of achieving 80% recycling, the disclosure of ownership would be 10%, the developer will work with the Town Manager to put together a plan to utilize local labor resources during construction and operations and to approve Option 1 for the easement. Commissioner Olchyk accepted the friendly amendments. The motion received a second from Vice Mayor Karukin. The motion carried 4-0. Commissioner Graubart was absent.

### 3. Adjournment

There being no further business to come before the Commission, the meeting adjourned at 9:17 p.m.

Accepted this 12<sup>th</sup> day of March, 2013

Attest



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Sandra Novoa, CMC  
Town Clerk



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Daniel Dietch, Mayor