

RESOLUTION NO. 18-2489

A RESOLUTION OF THE TOWN COMMISSION OF SURFSIDE, FLORIDA; APPROVING A SITE PLAN APPLICATION FOR PROPERTY GENERALLY LOCATED AT 9133-9149 COLLINS AVENUE, SURFSIDE, FL, FOR DEVELOPMENT CONSISTING OF 48 CONDOMINIUM UNITS, 31 HOTEL ROOMS, AND AN 1,100 SQUARE FOOT RESTAURANT AND LOUNGE; AND PROVIDING CONDITIONAL USE APPROVAL FOR THE HOTEL SWIMMING POOLS AND OUTDOOR DINING INCLUDED IN THE SITE PLAN; AND PROVIDING FOR A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, The Surf Club Apartments, Inc. and The Seaway Villas Condominium Association, Inc. (together, the “Applicant”), owner of the property generally located at 9133-9149 Collins Avenue, Surfside, FL 33154 and legally described as provided on Exhibit “A” attached hereto (the “Property”), submitted an application to the Town of Surfside, Florida (the “Application”), requesting site plan approval for the development of 48 condominium units, 31 hotel rooms, and an 1,100 square foot restaurant and lounge; and requesting conditional use approval for the hotel swimming pools, hotel lounge, and outdoor dining incorporated in the site plan.

WHEREAS, the Miami-Dade Historic Preservation Board reviewed the site plan application on September 21, 2016 and, with final revisions, on May 17, 2017 and recommended approval of the application with conditions which the Town desires to include as conditions of this approval; and

WHEREAS, on September 4, 2015, April 18, 2016, and September 28, 2017 the Town’s Development Review Group, pursuant to Section 90.20 of the Town Code, met to review the site plan application and provide technical comments to the Town staff and to the Applicant; and

WHEREAS, the Town’s Development Impact Committee, after advertised notice and notice posted on the Town’s website, met on July 27, 2016 and September 28, 2017, and during the televised meetings, reviewed the Application and made recommendations to the Planning and Zoning Board in accordance with the criteria set forth in the Town Code; and

WHEREAS, on January 25, 2018, 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 Code for Site Plan and Conditional Use Approval and the Application’s consistency with

the Town of Surfside's Comprehensive Plan and recommended the Application for Approval by the Town Commission, subject to the conditions of approval incorporated herein under Section IV. Conditions and with the request to revisit the driveway at the Seaway and consider removing it and that the Applicant add additional valets if queuing issues arise on Collins Avenue; and

WHEREAS, on February 13, 2018, the Town Commission, at a duly noticed and televised quasi-judicial public hearing, reviewed the Application and hearing from its professional staff, the Applicant, and members of the public, and considering the recommendation of the Planning & Zoning Board, the requirements of the Town Code for Site Plan and Conditional Use Approval and the Application's consistency with the Town of Surfside'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.

1. All recitals set forth above are incorporated into the body of this Resolution as if same were fully set forth herein.
2. The Commission finds that the proposed site plan and conditional uses are in compliance with the requirements of the Town Code for Site Plan and Conditional Use Approval and the Application is consistent with the Town of Surfside's Comprehensive Plan.

SECTION 2. SITE PLAN APPROVAL. The request to approve a site plan is hereby granted as shown on the site plan submitted to the Building Department on February 6, 2018 by Kobi Karp Architecture and Interior Design, Inc. dated October 2017 and provided for the public hearing, except as modifications are required by this approval or the Building Official.

SECTION 3. CONDITIONAL USE APPROVAL. The conditional use of the property for 4 rooftop hotel pools and 5 ground level hotel pools, hotel lounge, and for outdoor dining, as shown on the site plan approved herein, is hereby granted.

SECTION 4. CONDITIONS. The APPROVALS granted herein are subject to the following conditions:

1. The construction and uses shall be in accordance with the submitted plans for the hearing entitled "The Seaway Hotel and Residences" and dated October 2017, as submitted to the Building Department on February 6, 2018 and incorporated into this document as Exhibit "B" except as modifications may be required by this approval

and any changes required by the Building Official.

2. Pursuant to Section 90-20.3, the Applicant shall secure a building permit for the project no later than January 25, 2020.
3. The Applicant shall comply with the conditions imposed by the Miami-Dade Historic Preservation Board on May 17, 2017, as provided with the staff report, which conditions are incorporated herein as part of this approval.
4. The underground utilities on the approved site plan shall be installed in accordance with said site plan, unless administratively modified by Town staff. The Applicant shall demonstrate the underground utilities will be accommodated in the configuration proposed prior to a foundation permit.
5. The Applicant shall install a plaque on the exterior of the historic building notifying the public of the historic designated building, subject to approval by the Miami Dade County Historic Preservation Board.
6. 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.
7. The Applicant has voluntarily proffered \$250,000 to the Town to address the impacts of the development, which shall be paid within one year after approval of this development order or prior to issuance of the building permit, whichever is earlier. Upon obtaining the first building permit inspection, this payment shall be non-refundable.
8. The Applicant shall provide a bond not to exceed five percent of the construction cost, as required by the Town Manager. These funds shall be used to secure property and the construction site in the event construction is abandoned, or ceases prior to completion, or to repair public infrastructure damaged by construction and to maintain the site during abandonment.

9. The Applicant shall provide an email address as a point of contact for neighbors during construction and provide for a maximum of 24 hour response time. The email address will be advertised to Town residents.
10. The Applicant agrees to design the project to be LEED silver certifiable as evaluated at the time of building permit.
11. The Applicant agrees to obtain Florida Green Lodging Program designation for the project.
12. Sixty days prior to submittal of its request for a demolition permit, Applicant shall submit a demolition plan to Town Manager and Town Building Official that meets all Federal, State, and local requirements and that recycles a minimum of eighty percent (80%) of the demolition material.
13. The Applicant shall provide a construction fence with a windscreen, as required by the Town Code. The windscreen shall display a rendering, graphic or mural for aesthetic enhancement of the project, which shall be approved by the Town Manager, and be maintained in good condition throughout the construction process.
14. The Applicant shall ensure all lighting is installed and operated in a manner protective of wild life including sea turtles, pursuant to all applicable state law and the Town of Surfside Code of Ordinances, as may be amended from time to time.
15. The Applicant shall present evidence of a Construction Parking Plan for the provision of off-street parking outside of Town limits or on Applicant's property within the Town, for construction workers during the period of construction of the approved project prior to the issuance of a building permit. The Applicant and the Applicant's general contractor shall direct all workers not to park their vehicles in residential neighborhoods or lease parking spaces from Town residents or park in Town parking lots and Town parking metered spaces. The Construction Parking Plan shall be reviewed and approved by the Town Manager prior to the issuance of a building permit.
16. The Applicant and the Applicant's general contractor are responsible to enforce the Construction Parking Plan with all employees, contractors and subcontractors. The Applicant shall be fined five hundred dollars (\$500) for each parking ticket issued to construction workers for parking in residential neighborhoods or Town public parking while working on the construction site (limit of one fine per vehicle per day). The construction parking plan shall provide the following:

- (a) No workers shall park their vehicles in residential neighborhoods or Town public parking spaces; and
 - (b) Applicant shall provide monthly reports to the Town Manager of any problems or complaints with regard to workers parking their vehicles in residential neighborhoods; and
 - (c) If the Town Manager deems necessary, the Applicant shall provide more frequent reports and develop additional preventive measures to protect the residential neighborhoods.
17. 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 Town Manager Designee within 90 days of the effective date of this Resolution.
18. Any change in ownership of the current property owner, up to and including the turnover of ownership to the condominium association, greater than twenty percent (20%) shall be fully disclosed in writing to the Town Manager and Town Attorney immediately upon said change occurring. Any change of ownership of the project 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.
19. Pursuant to Section 90-60.1(5) of the Town Code, the Applicant shall provide a perpetual, irrevocable, hardpack access easement agreement, in a form acceptable to the town manager and approved as to legal sufficiency by the town attorney, with consideration given to the Planning and Zoning Board recommendation that the location of the easement provide public access up to the Erosion Control Line which includes the beach walking path and the dune. The Easement shall be executed, recorded and submitted to the Town by the Applicant within one year of this approval or prior to issuance of the building permit, whichever is earlier.
20. The Applicant shall provide a Unity of Title in a form acceptable to the Town Attorney for all parcels included in the site plan to the Town prior to the issuance of

the first building permit.

21. The Applicant shall ensure the Town's water/sewer infrastructure is ready to receive the approved utility connections referenced in Condition 1 above. At the option of the Town Commission, the Town may allow the Applicant to construct improvements to the Town water/sewer infrastructure at the Applicant's expense and provide a credit to the Applicant on the basis of one-half the reasonable cost of improvements up to a credit of \$250,000, which shall be credited against the voluntary proffer of \$250,000 offered to address the impacts of development (see condition 7).
22. The Applicant shall provide the Town with a detailed schedule for the construction of the project (the "Construction Schedule") within 90 days of approval of the Application by the Town Commission.
23. The approved site plan does not in any way create a right on the part of the Applicant to obtain a permit from a state or federal agency, and does not create liability on the part of the Town for issuance of the approval if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes action that result in a violation of federal or state law.
24. All applicable state and federal permits shall be obtained before commencement of construction.
25. The Applicant will restore all roadways impacted by the construction of the project to like new condition within 60 calendar days of issuance of a Temporary Certificate of Occupancy (TCO) or if no TCO is obtained, issuance of a Certificate of Occupancy.
26. Applicant shall meet with Town representatives to inspect roadways surrounding the project and evaluate the need for immediate repairs. Further, the Applicant will repair the dip in the roadway on 91st Street within 60 calendar days of this approval.
27. The Applicant shall restrict pesticide use to organic-based environmentally friendly products as part of their landscaping plan and maintenance.

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 13th day of February, 2018.

Motion by: Commissioner Karukin,

Second by: Commissioner Gielchinsky.

FINAL VOTE ON ADOPTION

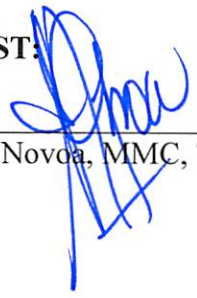
Commissioner Daniel Gielchinsky
Commissioner Michael Karukin
Commissioner Tina Paul
Vice Mayor Barry Cohen
Mayor Daniel Dietch

yes
yes
NO
yes
yes



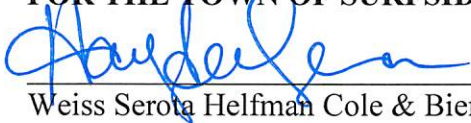
Daniel Dietch, Mayor

ATTEST:



Sandra Novoa, 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 Novoa, 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. 18-2489 adopted by the Town Commission at its meeting held on the 13th day of February, 2018.

Issued: 2/13/2018



Sandra Novoa, MMC
Town Clerk