

RESOLUTION NO. 2022-Z-2954

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 8809 HARDING AVENUE, SURFSIDE, FLORIDA, FOR A MULTIFAMILY RESIDENTIAL DEVELOPMENT CONSISTING OF EIGHT (8) DWELLING UNITS AND 18 PARKING SPACES KNOWN AS 8800 COLLINS AVENUE; PROVIDING FOR CONDITIONS; PROVIDING FOR VIOLATION OF CONDITIONS; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, 8800 Collins Owner, LLC (“Applicant”), fee simple owner of the vacant property located at 8809 Harding Avenue, Surfside, FL 33154 and legally described in Exhibit “A” attached hereto (the “Property”), submitted an “Application” on July 26, 2022, requesting site plan approval from the Town of Surfside, Florida (“the Town”) for an eight (8)-dwelling unit multifamily residential development with 18 parking spaces; and

WHEREAS, the Property is currently vacant; and

WHEREAS, the Application was reviewed by the Town’s Design Review Group on September 27, 2022, and all attending Town officials or departments commented on the Application but had no objection to the Application going forward for consideration at public hearings provided adequate conditions were implemented; and

WHEREAS, on September 29, 2022, 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 with staff conditions; and

WHEREAS, on November 29, 2022, 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/is not in compliance with the requirements and criteria set forth in the applicable Town Code and the Comprehensive Plan.

SECTION 2. SITE PLAN APPROVAL. The request to approve a site plan is hereby approved based on the plans prepared by Bermello, Ajamil & Partners, Inc., dated August 26, 2022, submitted to the Building Department as part of the Application, and consisting of the following sheets:

AF-001, AF-002, AF-003, G-001, G-002, G-003, G-004, LP100, A-01, A-02, A-100, A-101, A-102, A-103, A-104, A-500, A-510, A-520, A-530, A-540, A-550, A-560, A570, A-580, A-600, A-600.1, A-610, A-620, A-620.1, A-620.2, A-630, A-630.1, A-640, A-640.1, A-900, A-901, A-902, C100, C101, C200, C300, C400, L100, L200, and L300.

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

A. Prior to issuance of the First Building Permit, the Applicant shall:

- i. 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.
- ii. Make any necessary modifications to the landscape plans to meet minimum “Florida Friendly” requirements under the Town Code, as confirmed by the Town Planner.
- iii. Dedicate right-of-way for roadway purposes for the back of sidewalk radius at the southeast corner of Collins Avenue and 88th Street FDOT Access Connection Approval for Harding Avenue and Collins Avenue.
- iv. Provide the Town with the Applicant’s voluntary proffer of \$85,000: (i) of which \$67,000.00 shall go towards the cost of water and sewer improvements within the Town of Surfside, which may be used, at the Town’s discretion, for design, engineering, planning, permitting, installation, and/or construction observation or for any costs related to the planning, design, development, and implementation of

water and sewer improvements, at the Town's option; and (ii) \$18,000 shall be unrestricted into the general fund and may be applicable towards Town improvements or facilities.

- v. Demonstrate compliance with Section 14-30 of the Town Code regarding the required bond for damage to Town property.
- vi. 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).
- vii. 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.

B. During Construction, the Applicant shall:

- i. Comply with Section 14-32 of the Town Code regarding construction hours and noise.
- ii. Take all measures necessary, as determined by the Town Manager, to prevent off-site carry and drift of any dust, particulates or other airborne demolition and construction materials, including but not limited to, constructing a construction barrier of sufficient height on the south side of the construction site, acceptable to the Town Manager or his designee, to shield the roadway and tennis center from impacts of construction.

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

- i. Exclusive of and in addition to any financial proffers, relocate the existing water main bisecting the property to a separate location on the Property to be determined in consultation with the Public Works Director. The Applicant shall provide the Town with an easement for maintenance and repair of the relocated water main in form and substance acceptable to the Town Attorney.
- ii. Tie-in to existing water and sewer mains on Harding Avenue.
- iii. Ensure the Town's water/sewer infrastructure is ready to receive the approved utility connections referenced in condition nos. C.i. and C.ii. above.
- iv. Any damage to the existing sewer main or adjacent water main caused by the Applicant's development activities will be restored by the Applicant to the satisfaction of the Town's Public Works Department.
- v. Restore all adjacent roadways damaged by construction to Town of Surfside and/or FDOT standards, including milling and resurfacing 88th Street adjacent to the Property from the centerline of 88th Street to the property line.

- vi. Resurface, improve, and expand the sidewalk on 88th Street adjacent to the Property to six (6) feet in width. If pavers are selected, the paver material is subject to the reasonable approval of the Town's Public Works Director, and Applicant shall provide at least 500 square feet of replacement pavers to the Town for future maintenance.
- vii. Add landscaping islands in the street parking area directly south of the sidewalk. These islands will be at both corners and every two (2) parking spaces for a total of four (4) landscaping islands. The landscaped islands will contain shade providing street trees and will be chosen from the Florida Friendly Landscaping roster of trees.
- viii. Post a bond or provide a letter of credit in an amount not to exceed \$17,500.00 as determined by the Town Manager or designee to ensure the survival of landscaping material in the right-of-way for five (5) years after the Certificate of Occupancy is issued.

D. General Conditions:

- i. All utilities shall be installed underground, subject to approval of undergrounding by affected utilities.
- ii. 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.
- iii. 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 not to exceed five (5) percent of the construction cost, 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.
- iv. The Applicant shall design the project to be LEED silver certifiable and obtain LEED Silver certification or Florida Green Building Coalition level Silver for Homes certification, within 12 months of issuance of the Certificate of Occupancy

- and maintain such certification thereafter. Continuing compliance with this requirement shall be included as a condition on the final Certificate of Occupancy.
- v. The Applicant shall meet all requirements of the Town's Public Works Department and Miami-Dade County for storm drainage services.
 - vi. 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.
 - vii. 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.
 - viii. If the Town Manager deems necessary, the Applicant shall provide more frequent reports and develop additional preventive measures to protect the residential neighborhoods.
 - ix. 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. 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.
 - x. 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.
 - xi. 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.
 - xii. 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.

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

- i. All deliveries and loading after Certificate of Occupancy shall occur on-site and shall not block the street, sidewalk or any right-of-way.

- ii. The Applicant or successor Condominium Association shall be responsible for care and maintenance of landscaped areas within the public right-of-way until the plant species are well established, for a period of at least five (5) years. If plants die or are damaged during this period, the Applicant or successor Condominium Association will bear the cost of replacing them.
- iii. Maintain all landscaping materials on site in good condition, replacing diseased, dying or dead plant material as necessary so as to present a healthy and orderly appearance at all times.

F. Revisions to Plans:

- i. 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.
- ii. Any other changes to the approved site plan, including, but not limited to, changes to lot coverage, volume, height, or massing of the building, shall require a formal site plan amendment.

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 29th day of November, 2022.

Motion by: Mayor Danzinger

Second by: Commissioner Meischeid

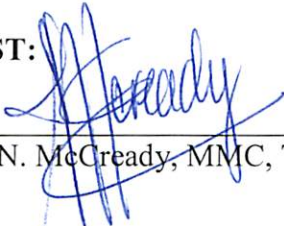
FINAL VOTE ON ADOPTION

Commissioner Fred Landsman	<u>Yes</u>
Commissioner Marianne Meischeid	<u>Yes</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. McCready, MMC, Town Clerk

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

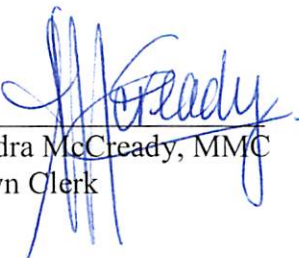


 Weiss Serota Helfman Cole & Bierman, P.L.
 Town Attorney

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. 2022- 2-2954 adopted by the Town Commission at its meeting held on the 29th day of November 2022.

Issued: December 8, 2022



 Sandra McCready, MMC
 Town Clerk

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

Lots 9 and 10, Block 3, **SECOND AMENDED PLAT OF NORMANDY BEACH**, according to the plat thereof, as recorded in Plat Book 16, Page 44 of the Public Records of Miami-Dade County, Florida
TOGETHER WITH

Lots 11 and 12, less East 10 feet thereof, Block 3, **SECOND AMENDED PLAT OF NORMANDY BEACH**, according to the plat thereof as recorded in Plat Book 16, Page 44 of the Public Records of Miami-Dade County Florida