

RESOLUTION NO. 2022-Z-2955

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 9309-9317 COLLINS AVENUE, SURFSIDE, FLORIDA, FOR A MULTIFAMILY RESIDENTIAL DEVELOPMENT CONSISTING OF UP TO 27 DWELLING UNITS AND UP TO 71 PARKING SPACES; PROVIDING FOR CONDITIONS; PROVIDING FOR VIOLATION OF CONDITIONS; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, R Palace Surfside, LLC (“Applicant”), fee simple owner of the condominium known as “Regent Palace” consisting of the property located at 9309-9317 Collins Avenue, Surfside, FL 33154 and legally described in Exhibit “A” attached hereto (the “Property”), submitted an “Application” on August 1, 2022, requesting site plan approval from the Town of Surfside (“Town”) for a 27-dwelling unit multifamily residential development with 71 parking spaces; and

WHEREAS, the Property is currently improved with the Regent Palace Condominium development consisting of 34 dwelling units which are proposed to be demolished; and

WHEREAS, the Application was reviewed by the Town’s Design Review Group on August 23, 2022, 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 August 25, 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 in compliance with the requirements and criteria set forth in the Town's Code and the Comprehensive Plan.

SECTION 2. SITE PLAN APPROVAL. The request to approve a site plan is hereby approved based on the plans submitted to the Building Department as part of the Application prepared by Arquitectonica. dated August 1, 2022, and consisting of the following sheets: A0.00, A1.00, Survey, A2.00, A2.01, A3.00, A3.50, A3.51, A4.00 – A4.08, A5.00 – A5.03, A6.00, and A7.00 -- A7.02; C100, C101, C200, C300, and C400; and L-000, L-001, L-002, L-003, L-110, L-111, L-112, L-113, L-114, L-120, L-121, L-122, L-123, L-190, L-191, L-192, L-193, L-301, L-510, L-511, L-512 and IR110.

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

A. Special Conditions.

1. Prior to demolition permit and throughout demolition 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 demolition and construction materials, including, but not limited to, constructing a minimum 16-foot tall construction barrier on the south side of the Property, acceptable to the Town Manager or his designee, to shield the Town Community Center from impacts of construction.

- d. Prepare and submit a hardpack management plan to address the use, maintenance and repair and restoration of the hardpack area to be temporarily used for construction related access and transport of materials and equipment to the Property, subject to the Town Manager's and Public Works Director's approval ("Hardpack Management Plan").
- e. As per voluntary proffer at the Planning and Zoning Board hearing, dedicate a pedestrian easement to the Town for pedestrian and public access to and from the beach, in legal form and substance acceptable to the Town Attorney, limited to the portion of the Town Community Center's public beach access path that currently encroaches onto the southern portion of the Property east of the bulkhead line (the "Beach Access Path").
- f. Provide the Town Manager with a Beach Access Path construction safety plan (the "Beach Access Plan") acceptable to the Building Official to ensure safe use and access of the Beach Access Path throughout demolition and construction. Safety barriers for the Beach Access Path, as approved by the Building Official, must be erected prior to commencing demolition or construction.
- g. Maintain the Beach Access Path open at all times for safe public use in accordance with the Beach Access Plan, except for those times that the Beach Access Path is being actively reconstructed.
- h. Dedicate a hardpack easement to the Town in form and substance acceptable to the Town Attorney, and in compliance with Section 90-60.1(5) of the Town Code.
- i. As provided in Section 14-104 of the Town Code, adopt and implement demolition and construction methods acceptable to and approved by the Building Official to protect the foundation(s) of the Town Community Center, if a structural analysis of same reveals the need to do so.
- j. In lieu of a flat crane, or any other crane where the counterweights extend out from the boom and potentially over neighboring properties, employ a luffing crane or similar apparatus, that will not swing over neighboring properties or portions of Collins Avenue not closed to pedestrian and vehicular traffic pursuant to an active Maintenance of Traffic (MOT) plan approved by the Florida Department of Transportation. Under no circumstances shall live loads be swung over neighboring properties or portions of Collins Avenue not closed to pedestrian and vehicular traffic pursuant to an active Maintenance of Traffic (MOT) plan approved by the Florida Department of Transportation. All use and storage of construction cranes shall be in strict accordance with the then-current safety regulations promulgated by the Occupational Safety and Health Administration (OSHA).

2. Prior to Obtaining a Building Permit for New 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. Provide the Town with the Applicant's voluntary proffer of \$215,000.00 towards the cost of water and sewer improvements and/or stormwater improvements on Collins Avenue within the Town of Surfside. Said funds may be used, at the Town's discretion, for design, engineering, planning, permitting, installation and construction observation or for any costs related to the planning, design, development, and implementation of water and sewer and/or stormwater improvements, at the Town's option.
- c. Provide the Town with an additional voluntary proffer of \$100,000.00 payable into the general fund account to provide funding for improvements, operations, repair or maintenance to the Community Center, at the Town's sole discretion.
- d. Provide the Town with the following additional voluntary proffers: (i) \$58,000 for reimbursement of gym/fitness equipment expenditure; and (ii) \$7,000 for the installation of lighting on the hardpack behind the Project.
- e. 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's 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.
- f. Demonstrate compliance with Section 14-30 of the Town Code regarding the required bond for damage to Town property.
- g. 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).
- h. 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.

- i. Modify proposed paved sidewalks on Collins Avenue to either (i) extend installation of pavers south to the south property line of the Community Center; or (ii) forego installation of pavers to provide for Miami Beach Red concrete sidewalk consistent with the existing sidewalk adjacent to the Property. If option (i) is selected, the paver material is subject to the reasonable approval of the Public Works Director, and Applicant shall provide at least 500 square feet of replacement pavers to the Town for future maintenance.

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

- a. Exclusive of and in addition to any financial proffers, remove existing 8-inch water main and install a new C-900 12-inch water main, the Town standard, within Collins Avenue for the entire width of the Property and extending south to tie in to the existing 12-inch water main running east-west within 93rd Street.
- b. Tie-in to existing sewer main using existing sewer laterals. New sewer cut-ins shall not be approved.
- c. Ensure the Town's water/sewer infrastructure is ready to receive the approved utility connections referenced in condition no. 3.a and 3.b above.
- d. 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.
- e. Improve the crown of the entire dune system east of the Property, located between the two existing beach access cut-throughs to the north and south of the portion of the dune adjacent to the Property, bringing the elevation to +15.00 feet NGVD and improve dune as follows subject to FDEP approval:
 - i. Preserve or relocate existing sea grapes and other protected species.
 - ii. Remove all invasive species.
 - iii. Replant island with 6-gallon sea oats or approved equivalent; and
 - iv. Permit applications, including existing conditions plan, grading plan, tree disposition plan, and landscape plan, shall be submitted for approval by the Florida Department of Environmental Protection and the Town's Public Works Department prior to commencement of the work. Existing trees may be relocated as approved by FDEP and the Town.
- f. Restore all adjacent roadways damaged by construction to Town of Surfside and FDOT standards.
- g. Post a bond in the amount and duration determined by the Town Manager or designee to ensure the survival of landscaping material for one or more years after the Certificate of Occupancy is issued.

- h. Restore hardpack to pre-construction condition from 96th Street to south side of Property in accord with the approved Hardpack Management Plan.

4. General Conditions:

- a. All utilities shall be installed underground.
- 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. 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.
- d. The Applicant shall design the project to be LEED silver certifiable and obtain LEED Silver or its equivalent certification from the Florida Green Building Coalition level Silver for High-Rise construction within 12 months of issuance of the Temporary Certificate of Occupancy and maintain such certification thereafter. Compliance with this requirement shall be included as a condition on the final Certificate of Occupancy.
- e. The Applicant shall meet all requirements of the Town Public Works Department and Miami-Dade County for storm drainage services.
- 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. 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.
- j. 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.
- k. 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.
- l. The Applicant may, subject to the issuance of the necessary permits, locate no more than two temporary trailers within the portion of the Property west of the hard pack area to serve as construction and sales offices during the duration of the redevelopment process. No structures, materials, or equipment may be located in the hard pack area.
- m. 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.

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

- a. The rooftop deck shall not have live music. Recorded 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.
- 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 stacking.

- e. All employees shall be required to park on private property.
- f. All deliveries and loading after Certificate of Occupancy shall occur on-site and shall not block the street, sidewalk or any right-of-way.
- g. 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.

6. 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. 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 Velasquez

FINAL VOTE ON ADOPTION

Commissioner Fred Landsman	<u>Yes</u>
Commissioner Marianne Meisheid	<u>Yes</u>
Commissioner Nelly Velazquez	<u>Yes</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:

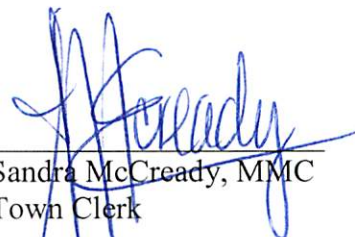


 Weiss Serota Helfman Cole & Bierman, P.L.
 Town Attorney

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. 2022-2-2955 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

LEGAL DESCRIPTION:

Lots 2 and 3, Block 2, of "ALTOS DEL MAR NO 5", according to the plat thereof, as recorded in Plat Book 8, at Page 92, of the Public Records of Miami-Dade County, Florida.

AND:

That portion of land lying East of said Lots 2 and 3, Block 2; bounded on the North by the Easterly extension of the North line of said Lot 3; Bounded on the East by the EROSION CONTROL LINE, according to the plat thereof, as recorded in Plat Book 105 at Page 62, of the Public Records of Miami-Dade County, Florida; bounded on the South by the Easterly extension of the South line of said Lot 2; bounded on the West by the East line of said Lots 2 and 3, Block 2.