

RESOLUTION NO. 15-Z - 156

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, (“CITY”) APPROVING A SITE PLAN APPLICATION PZ2015-16 SUBMITTED BY LA PLAYA BEACH ASSOCIATES, LLC (THE “APPLICANT”) FOR TWO 56-STORY TOWERS CONSISTING OF 431 RESIDENTIAL CONDOMINIUMS, 60 HOTEL UNITS AND 90 APARTMENT-HOTEL UNITS AND 1,228,435 SQUARE FEET OF FLOOR AREA RATIO (“FAR”); PROVIDING THE CITY MANAGER WITH THE AUTHORITY TO DO ALL THINGS NECESSARY TO EFFECTUATE THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR AN EFFECTIVE DATE.

I. RECITALS

WHEREAS, the Applicant La Playa Beach Associates, LLC (the “Applicant”) has submitted a site plan application (PZ2015-16) to the City of Sunny Isles Beach, Florida requesting the following:

1. Pursuant to Section 265-18 of the City of Sunny Isles Beach Land Development Regulations, the Applicant is requesting a site plan approval for two 56-story mixed-use towers, 649 feet in height with 431 condominium units, 90 apartment/hotel units, 60 hotel units and a total FAR of 1,228,435 square feet.
2. Pursuant to Section 265-23 of the City of Sunny Isles Beach Land Development Regulations, the Applicant is requesting the utilization and assignment of public TDRs in the amount of 283,485 square feet of floor area and 119 dwelling units. An adjustment to be made for a decrease of 283,485 square feet of floor area and 120 dwelling units from the City’s TDR Bank.
3. Pursuant to Section 265-46 A. (3) of the City of Sunny Isles Beach Land Development Regulations, the Applicant is requesting approval of a shared parking agreement between the apartment/hotel and hotel uses.
4. Pursuant to Section 265-11 N. (2) of the City of Sunny Isles Beach Land Development Regulations, the Applicant is requesting approval of the extension of the building permit time frame to allow for an additional 48 months beyond the 24 month time frame for a total of 72 months.

Legal Description:

All of Tract "I", less the South 216.66 feet as measured at right angles to the South line of said Tract "I", of AMENDED PLAT NORTH BISCAYNE BEACH, according to the plat thereof, as recorded in Plat Book 44, at Page 42, of the Public Records of Miami-Dade County, Florida.

TOGETHER WITH

That parcel of land lying East of and bounded on the West by the East line of said Tract "I", and bounded on the North by the Easterly extension of the North line of said Tract "I", and bounded on the East by the Erosion Control Line of the Atlantic Ocean, as recorded in Plat Book 134 at Page 47, of said Public Records of Miami-Dade County, Florida, and bounded on the South by the Easterly extension of the North line of the South 216.66 feet, as measured at right angles to the South line of said Tract "I" of AMENDED PLAT NORTH BISCAYNE BEACH

AND

The South 200 feet of Tract "H", as measured at right angles to the South line of said Tract "H", of AMENDED PLAT NORTH BISCAYNE BEACH, according to the plat thereof, as recorded in Plat Book 44, at Page 42, of the Public Records of Miami-Dade County, Florida.

TOGETHER WITH

That parcel of land lying East of and bounded on the West by the East line of said Tract "H", and bounded on the North by the Easterly extension of the North line of said South 200 feet of Tract "H", as measured at right angles to the South line of said Tract "H", and bounded on the East by the Erosion Control Line of the Atlantic Ocean, as recorded in Plat Book 134 at Page 47, of said Public Records of Miami-Dade County, Florida, and bounded on the South by the Easterly extension of the South line of said Tract "H" of AMENDED PLAT NORTH BISCAYNE BEACH.

ADDRESS: 18801 Collins Avenue, Sunny Isles Beach, FL 33160

FOLIO: 31-2202-003-0120

WHEREAS, on November 19, 2015, the City Commission conducted a public hearing on this site plan application; and

WHEREAS, the public hearing of the City Commission was advertised and held as required by law, all interested parties concerned in the matter were heard, and due and proper consideration was given to the matter and to the positive recommendation contained in the City's Community Development Department Review Report; and

WHEREAS, notice was provided to all interested parties regarding the site plan application; and

WHEREAS, the City Commission reviewed the site plan application, the written and oral recommendations of the Zoning Administrator of the Community Development Department, including the recommended conditions, and finds substantial competent evidence to support a showing by the Applicant that the request for site plan application approval is in compliance with the Land Development Regulations and the Comprehensive Master Plan of the City and maintains the basic intent and purpose of the zoning, subdivision or other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community; and, further finds that said request should be granted, subject to the conditions described herein.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AS FOLLOWS:

II. INCORPORATION OF RECITALS

All recitals above are incorporated into the body of this Resolution as if same were fully set forth herein.

III. FINDINGS AND CONCLUSIONS:

Based on an analysis of the application and the standards for approval for a site plan application under the Land Development Regulations, the City Commission makes the following findings and conclusions:

- A. The Applicant's request for approval for two 56-story mixed-use towers, 649 feet in height with 431 condominium units, 90 apartment/hotel units, 60 hotel units and a total FAR of 1,228,435 square feet, is in compliance with the Land Development Regulations and the Comprehensive Plan of the City of Sunny Isles Beach.

IV. APPROVAL

- A. The Applicant's request for site plan approval for two 56-story mixed-use towers, 649 feet in height with 431 condominium units, 90 apartment/hotel units, 60 hotel units and a total FAR of 1,228,435 square feet, is hereby approved subject to all conditions set forth in Section V below.
- B. The Applicant's requested utilization and assignment of public TDRs in the amount of 283,485 square feet of floor area and 119 dwelling units, with an adjustment to be made for a decrease of 283,485 square feet of floor area and 120 dwelling units from the City's TDR Bank, is hereby approved subject to all conditions set forth in Section V below.
- C. The Applicant's requested approval of a shared parking agreement between the apartment/hotel and hotel uses is hereby approved subject to all conditions set forth in Section V below.

- D. The Applicant's requested approval of the extension of the building permit time frame to allow for an additional 48 months beyond the 24 month time frame for a total of 72 months is hereby approved subject to all conditions set forth in Section V below.

V. **CONDITIONS**

A. **Conditions to be completed before demolition, below grade or building permits are issued.**

1. That the plans in the approval be substantially in accordance with that submitted for public hearing, which are entitled "Varadero", prepared by ODP Architects stamped received November 3, 2015 consisting of 28 sheets, landscaping plans prepared by West 8/Rosenberg Gardner Design consisting of 9 sheets stamped received November 3, 2015, civil plans prepared by VSN Engineering stamped received November 3, 2015 consisting of 21 pages and the Survey entitled ALTA/ACSM Land Title Survey prepared by Fortin, Leavy, Skiles, Inc. consisting of one sheet dated on September 22, 2014 (Replotted 10/30/15). Plans are subject to revisions based comments provided by zoning staff of the City of Sunny Isles Beach. Plans are subject to modification.
2. If applicable, a Miami-Dade County tree removal permit must be secured and attached to the landscape permit application prior to demolition.
3. Palms along Collins Avenue must be at least 12' clear-wood Medjool Palms to be consistent with the City Streetscape Master Plan.
4. The Applicant shall submit any and all other documentation and/or payments required by the City to effectuate the purchase of transfer of development rights from the City and further procedures being developed to effectuate this program, notwithstanding the fact that such procedures may be formally adopted subsequent to this particular approval, prior to submitting for building permit.
5. Upon the submittal of an application for a building permit, the plans submitted shall be approved by the Community Development Department and be consistent with the specific site plan approved by the City Commission. Plans shall include all the required elements of the site plan pursuant to the City's Land Development Regulations and recommendations. Should compliance with recommendations result in a change that would not be considered "minor" in accordance with Section 265-18 of the City Code, the Applicant shall be required to obtain another approval of the City Commission.
6. That a plot plan be submitted to the Community Development Department for their review. The plot plan shall include all easements proffered by the Applicant to the City, including but not limited to (i) a ten-foot (10') Landscaping Streetscape Easement as per the City Streetscape Master Plan (the "Streetscape Easement"); (ii) a 10,000 square foot oceanfront park easement (the "Oceanfront Park Easement"); and (iii) a twenty-foot (20') Beach Access Easement (the "Beach Access Easement"). The plot plan shall show the type

and size of plant materials, which shall be in compliance with the City's Streetscape Master Plan.

7. That the Applicant submit a Declaration of Restrictions in recordable form acceptable to the Community Development Department and acceptable to the City Attorney prior to submittal for an application for building permit, which proffers: (i) including the ten-foot (10') Landscaping Streetscape Easement as per Streetscape Master Plan, (ii) Oceanfront Park Easement, (iii) Beach Access Easement, and (iv) Applicant shall identify the four (4) condo/hotel units which are subject to the 5% residency rule in the City Code. The Declaration of Restrictions shall include the easements proffered to the City and shared/cross parking agreement described below. The maintenance of the easements shall be the responsibility of the Applicant. The Declaration shall provide that the Applicant shall provide 24-hour valet parking services for owners and guests, among other things.
8. That the Applicant submit a shared/cross parking agreement between the Hotel and Apartment/Hotel users describing the shared parking agreement between the uses, in recordable form acceptable to the City Manager and acceptable to the City Attorney prior to submittal for an application for building permit.
9. That the Applicant shall install the improvements including but not limited to decorative pavers, benches, lighting, garbage container, signage, landscaping, bicycle racks and a beach shower on the Beach Access Easement. The Applicant shall design all improvements on the Beach Access Easement with a minimum drivable path of 15 feet wide to provide access for emergency and beach renourishing vehicles, final design is subject to the approval of the City Manager or Designee.
10. That the Applicant shall submit a traffic/pedestrian study for a mid-block crosswalk at Collins Avenue South of 189th Street within one-year from the date of approval of the site plan, if approved. The study must comply with FDOT requirements to implement such project. If the study is not warranted by FDOT standards, the Applicant shall agree to mitigate the pedestrian crosswalk before Building permitting according to the Mid-block Pedestrian Crosswalk proposal submitted by Applicant on November 10, 2015. The mitigation cost shall be \$150,000.00
11. That in the event of multiple ownership, a homeowner's association be established in accordance with applicable regulations to assure that all common areas and facilities for the residents, as well as all easements dedicated to the City, shall be maintained in continuous and satisfactory manner and without expense to the general taxpayers of the City of Sunny Isles Beach.
12. That the Applicant comply with all conditions and permit requirements, including but not limited to Miami-Dade County, including environmental conditions and permitting, the Fire and Water and Sewer Departments, Florida Department of Environmental Protection (DEP), Florida Department of Transportation (FDOT), and the Federal Aviation Administration (FAA).

13. No building permits shall be issued (except for demolition and sales trailers) unless the Applicant has submitted all documents referred to under this approval and shall have paid all impact fees, bonuses, and Transfer of Development Rights (if applicable), professional fees (as per Section 265-11 and such other applicable Land Development Regulations) due to the City.
14. That Applicant shall obtain concurrency review approval from Miami-Dade County School Board.
15. That the Applicant must present evidence of performance to the Community Development Department of the obligation required to qualify for the Floor Area Ratio bonus. In the event that the Applicant has done so and prior to issuance of the Certificate of Occupancy the Applicant shall acquire the following floor area ratio bonuses:

a) Beach Access Trust Fund	0.20 FAR	\$ 1,358,208
b) Beach Access Easement	0.10 FAR	\$ 0.00 (*)
c) Public Beach Rec. Enhancement	0.60 FAR	\$ 4,074,624
d) Collins Ave Streetscape	0.60 FAR	\$ 4,074,624
e) Sunny Isles Public Parking	0.20 FAR	\$ 1,358,208
f) Public Recreational Open Space	0.20 FAR	\$ 0.00 (*)
g) Educational and Cultural	0.20 FAR	\$ 1,358,208

The FAR bonus program consists of participation units, which in this case are equal to 36 participation bonus units (where each participation unit has a value of 0.05 FAR). In detail, the bonus formula is the lot size (acres), times the participation units, times the price of the participation unit, for this case is as follows:

- 4.716 (acres) x 36 (participation units) x \$72,000 (price tag/participation unit) = \$12,223,872

The total contribution for all Floor Area Ratio bonuses for the development is \$12,223,872 for a total increase in floor area ratio of 2.1 for a floor area ratio of 4.6. The Applicant shall provide the City with a non-refundable deposit in the amount of ten percent (10%) of the approved purchased price of \$12,223,872 for the FAR bonuses acquired from the City. The total amount of the deposit is \$1,222,390. Failure to pay the required deposit within the three (3) working days of approval of the site plan application shall result in an automatic voiding of the City Commission site plan approval.

16. That the Applicant shall pay all fees related to the review of the application described herein and shall have paid all other fees due to the City.
17. That the applicant shall submit evidence of purchase subject of the required 283,485 square feet and 120 dwelling units of Transfer Development Rights (TDRs). That the Applicant provides the City with a non-refundable deposit in the amount of ten percent (10%) of the approved purchased price of \$35,435,625 for the Transfer Development Rights (TDRs)

purchased from the City Bank. The total amount of the deposit is \$3,543,560. Failure to pay the required deposit within the three (3) working days of approval of the Transfer Development Rights (TDRs) application and site plan application shall result in an automatic voiding of the City Commission approval of the Receiving Site, transfer of Transfer Development Rights (TDRs), and site plan approval.

18. That the Applicant shall pay **\$1,000,000.00** to the City for the design flexibility allowance provided pursuant to Section 265-35 D.(4)(d)[i] of the City Code. The total amount of the non-refundable deposit is **\$100,000.00**. Failure to pay the required deposit within the three (3) working days of approval of the Transfer Development Rights (TDRs) application and site plan application shall result in an automatic voiding of the City Commission approval of the Receiving Site, transfer of Transfer Development Rights (TDRs), and site plan approval.
19. That the Applicant shall pay the required contribution to the Art in Public Places Fund in the amount equal to 1% of the construction cost but not to exceed **\$500,000.00** in lieu of the required artwork. The Applicant shall provide the City with a non-refundable deposit in the amount of ten percent (10%) of the contribution amount of **\$500,000**. The total amount of the deposit is **\$50,000**. Failure to pay the required deposit within the three (3) working days of approval of the site plan application shall result in an automatic voiding of the City Commission site plan approval.
20. That the Applicant shall address comments provided by City's Traffic Consultant regarding Traffic and Shared Parking analysis. The City Manager or his designee shall review and provide additional comments if necessary. The Applicant shall address comments provided by the City's Traffic Consultant regarding traffic and shared parking analysis. The City Manager along with the City's Traffic Consultant must be satisfied with the Applicant's response to the comments as a prerequisite to approval.
21. That the Applicant shall address comments provided by City's Landscaping Architect regarding landscaping plans submitted during site plan review process. The City Manager or his designee shall review and provide additional comments if necessary.
22. That the Applicant shall address comments provided by City's Civil Engineer regarding civil plans submitted during site plan review process. The City Manager or his designee shall review and provide additional comments if necessary.
23. That if the Applicant choose to propose an artwork prior building permitting, the Applicant is not required to submit the remainder monetary contribution to meet the minimum monetary requirement. Any artwork must be presented and approved by the City Commission.

B. Conditions to be completed before any certificate of Occupancy is issued.

24. That the Applicant shall underground all utility lines in front of the proposed mixed-use project. The City may request additional easements for the purpose of undergrounding utilities. At the time of underground utility lines for the project, the Applicant shall also install decorative sidewalk pavers consistent with decorative sidewalk pavers installed by the City on the west side of Collins Avenue. The decorative sidewalks shall be installed from the northern boundary of the property to the southern boundary of the property.
25. Under Section 267-4, the City Manager and/or his/her designee in review of any application, may refer any such application presented to it to such engineering, planning, legal, technical, or environmental consultant or professional(s) employed by the City as the Manager shall deem reasonably necessary to enable him/her to review such application as required by law. Charges made by such consultants or professionals shall be in accord with the charges customarily made for such services in Miami-Dade County, and pursuant to an existing contractual agreement by and between the City and such consultant. Charges made by the City shall be in accord with the hourly rates charged by such consultants or hourly rates of employed professionals and shall be paid within 30 days on submission of City voucher.
26. At the time of submission of any application or thereafter, it is required that an escrow account be established, from which withdrawals shall be made to reimburse the City for the cost of professional review services, if any. The Applicant shall then provide funds to the City for deposit into such account in an amount to be determined by the City Manager, based on his/her evaluation of the nature and complexity of the application. The Applicant shall be provided with copies of any City voucher for such services as they are submitted to the City. When the balance in such escrow is reduced to one-third (1/3) of its initial amount, the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such account is not replenished within thirty-days (30) after the applicant is notified, in writing, of the requirements for such additional deposit, the City may suspend its review of the application. An application shall be deemed incomplete if any amount shall be outstanding. A building permit or Certificate of Use and Certificate of Occupancy shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the City. Once all pertinent charges have been paid, the City shall refund to the Applicant any funds remaining on deposit.
27. The Applicant shall furnish payment and performance bond in an amount determined by the Building Official to ensure Applicant's performance of public improvements required pursuant to site plan approval and in accordance with recommendations of the Building Official after review of construction plans submitted based on development approval granted herein. Any such bond shall be issued by a surety having a minimum rating of A-1 in the Best's Key Rating Guide, Property/Casualty Edition, shall be subject to the approval of the City, and shall provide that "this bond may not be cancelled or allowed to lapse until 30 days after receipt by the City, by certified mail, return receipt requested, of written notice from the issuer of the bond of intent to cancel or not to renew". As

improvements are made the City, within its discretion, may reduce or eliminate the bond amount. These rights reserved by the City with respect to any construction bond established pursuant to this section are in addition to all other rights and remedies the City may have under this Resolution, in law or in equity.

Other Conditions:

28. That the Applicant obtains a Certificate of Occupancy and a Certificate of Use from the City upon compliance with all terms and conditions. The Certificate of Occupancy and Certificate of Use shall be subject to cancellation upon violation of any of the conditions.
29. That the approved site plan shall remain valid for a period of 72-months from the date of approval. If no building permit is issued within the 72-month time period, the site plan shall be considered null and void and of no force and effect.
30. That the Applicant complies with all City Ordinances, County, State and Federal Laws and Regulations applicable to development and permit approvals.
31. All sand excavated from the property including sand from the western side of the Coastal Construction Control Line ("CCCL") shall be cleaned and shall remain on the beach for re-nourishment purposes in a location to be determined by Miami-Dade County Regulatory and Economic Resources ("RER") (formerly Miami-Dade County Department of Environmental Resources Management "DERM").

NO BUILDING PERMIT SHALL BE ISSUED UNLESS THE APPLICANT HAS SUBMITTED ALL DOCUMENTS REFERRED TO UNDER THIS RESOLUTION AND SHALL HAVE PAID ALL IMPACT FEES, BONUSES AND PROFESSIONAL FEES (AS PER SECTION 267-4 OF THE CODE OF THE CITY OF SUNNY ISLES BEACH) AND ALL OTHER FEES DUE AND OWING PURSUANT TO THE APPLICABLE LAND DEVELOPMENT REGULATIONS, AND SHALL HAVE SUBMITTED PAYMENT TO THE CITY FOR ALL TRANSFER OF DEVELOPMENT RIGHTS (IF APPLICABLE), OR SHALL HAVE OTHERWISE PRODUCED EVIDENCE THAT THE PERMITTED PRIVATE DEVELOPMENT RIGHTS AS SET FORTH IN SECTION IV HEREINABOVE HAVE BEEN TRANSFERRED.

FAILURE BY THE CITY TO TIMELY ENFORCE ANY OF THE ABOVE CONDITIONS DOES NOT CONSTITUTE A WAIVER OF THE SAME AND IF THE APPLICANT, ITS SUCCESSORS, OR, ASSIGNS, DOES NOT PERFORM SUCH CONDITIONS WITHIN FIVE (5) DAYS AFTER WRITTEN NOTICE, THE CITY RETAINS THE RIGHT TO STOP CONSTRUCTION, IF NECESSARY, UNTIL THAT CONDITION IS MET. BY ACTING UNDER THIS APPROVAL, APPLICANT HEREBY CONSENTS TO ALL THESE TERMS AND CONDITIONS.

VI. AUTHORIZATION OF CITY MANAGER

The City Manager is hereby authorized to do all things necessary to effectuate this Resolution.

VII. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Resolution is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Resolution.

VIII. REPEALER

All Resolutions are parts of Resolutions in conflict herewith shall be hereby and are repealed.

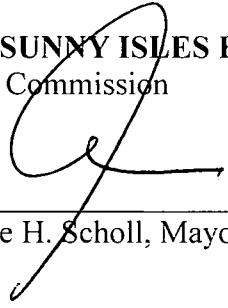
IX. EFFECTIVE DATE

This Resolution shall become effective upon adoption.

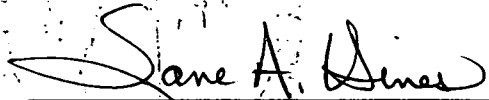
PASSED and ADOPTED this 19th day of November, 2015.

CITY OF SUNNY ISLES BEACH, FLORIDA
By its City Commission

By: _____
George H. Scholl, Mayor



ATTEST:



Jane A. Hines, MMC, City Clerk

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**



Hans Ottinot, City Attorney

Moved by: Commissioner AELION

Second by: Commissioner LEVIN

VOTE: 5-0

Mayor Scholl	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
Vice Mayor Gatto	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
Commissioner Aelion	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
Commissioner Goldman	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no
Commissioner Levin	<input checked="" type="checkbox"/> yes	<input type="checkbox"/> no

STATE OF FLORIDA)
) ss:
COUNTY OF MIAMI-DADE)

I, JANE A. HINES, Clerk of the City of Sunny Isles Beach, Florida, do hereby certify that the above and foregoing is a true and correct copy of Resolution No. 15-Z-156 adopted by the City Commission at its meeting held on the 19th day of November, 2015.

Issued this 25th day of November, 2015.


Jane A. Hines, MMC, City Clerk

