

RESOLUTION NO. 16-Z - 158

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, ("CITY") APPROVING A SITE PLAN MODIFICATION APPLICATION SUBMITTED BY LA PLAYA BEACH ASSOCIATES, LLC (THE "APPLICANT") FOR TWO 56-STORY CONDOMINIUM BUILDINGS, 649 FEET IN HEIGHT WITH 490 CONDOMINIUM UNITS, 12 CABANAS, 7,181 SQUARE FEET OF RESTAURANT SPACE, 7,780 SQUARE FEET OF OFFICE SPACE AND 1,850 SQUARE FEET OF RETAIL SPACE WITH A TOTAL FLOOR AREA RATIO (FAR) OF 1,228,154 SQUARE FEET; 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") is applying for a modification of the approved site plan under Resolution No. 15-Z-156, adopted on November 19, 2015, and has submitted a site plan modification application (Application No. PZ2016-03) 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 modification to an approved site plan under Resolution No. 15-Z-156, adopted November 19, 2015.

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 April 21, 2016, the City Commission conducted a public hearing on this site plan modification 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 modification application; and

WHEREAS, the City Commission reviewed the site plan modification 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 modification 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 modification under the Land Development Regulations, the City Commission makes the following findings and conclusions:

- A. The Applicant's request for site plan modification is consistent with the Comprehensive Plan and Land Development Regulations of the City of Sunny Isles Beach.

IV. APPROVAL

- A. The Applicant's request for a site plan modification of the approved site plan under Resolution No. 15-Z-156, adopted on November 19, 2015, is hereby approved subject to all conditions set forth in Section V below. The site plan approval under Resolution No. 15-Z-156 is deemed modified by the plans set forth in Condition No. 1 in Section V below.

V. CONDITIONS

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 March 30, 2016 consisting of 23 sheets, landscaping plans prepared by West 8/Rosenberg Gardner Design consisting of 10 sheets stamped received March 30, 2016, civil plans prepared by VSN Engineering stamped received March 30, 2016 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).
2. All conditions enumerated under Resolution No. 15-Z-156 shall remain in effect, as applicable.
3. 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.
4. That the Applicant shall address comments provided by City's Traffic Consultant regarding traffic and pedestrian crossing analysis. The City Manager or his designee shall review and provide additional comments if necessary.
 5. That the Applicant shall address comments provided by the City's Civil Engineer regarding civil plans submitted during the site plan review process. The City Manager or his designee shall review and provide additional comments if necessary.
 6. That if the Applicant chooses to propose an artwork prior to 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 and already made deposits are not refundable nor credited.
 7. That the Applicant shall address comments provided by the 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.
 8. That the Applicant is required to provide a Declaration of Restrictive Covenants for the restrictions to (1) cabana ownership is restricted to condominium owners within the approved development project; and (2) the commercial spaces within the project is to be restricted to one (1) corporate entity under one (1) form of ownership. The Applicant shall submit a Declaration of Restrictive Covenants in a form acceptable to the City Attorney. The Declaration of Restrictive Covenant shall be recorded in the public records of Miami-Dade County at the Applicant's expense.

Conditions to be completed before any Certificate of Occupancy is issued:

9. 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.
10. 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.

11. 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

12. 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.
13. That the approved site plan shall remain valid for a period of 72-months from the date of the site plan modification 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.
14. That the Applicant complies with all City Ordinances, County, State and Federal Laws and Regulations applicable to development and permit approvals.
15. 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

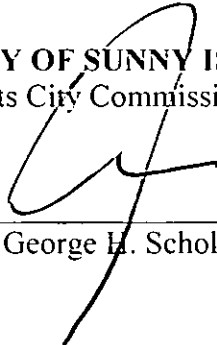
All Resolutions are parts of Resolutions in conflict herewith shall be hereby and are repealed.

IX. EFFECTIVE DATE

This Resolution shall become effective upon adoption.

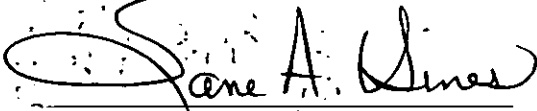
PASSED and ADOPTED this 21st day of April, 2016.

CITY OF SUNNY ISLES BEACH, FLORIDA
By its City Commission

By: 

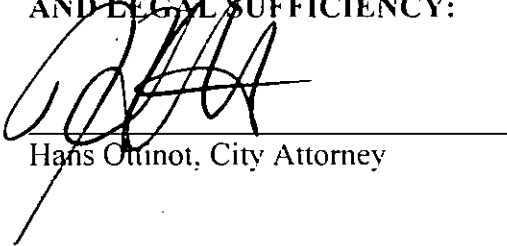
George H. Scholl, Mayor

ATTEST:



Jane A. Hines, MMC, City Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:


Hans Ottnot, City Attorney

Moved by: Commissioner AELION

Second by: Commissioner LEVIN

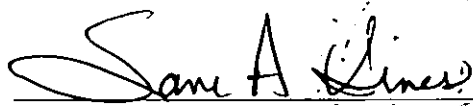
VOTE: 5-0

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. 16-Z-158 adopted by the City Commission at its meeting held on the 21st day of April, 2016.

Issued this 3rd day of May, 2016.



Jane A. Hines, MMC, City Clerk

