



# MEMORANDUM

ITEM NO. 4B1

**To:** Honorable Mayor, Vice-Mayor and Members of the Town Commission  
**From:** Guillermo Olmedillo, Town Manager  
**Date:** 03/12/19  
**Subject:** Prohibiting Hotels in H40

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Commissioner Karukin presented a discussion item (attached) at the February 12, 2019 Commission meeting to prohibit hotels in the H40 district. This area is generally described as the west side of Collins Avenue, south of 93<sup>rd</sup> Street to 88<sup>th</sup> Street. The Commission directed staff to prepare an ordinance addressing this limitation.

**Staff Findings:** The code modification proposed will continue to permit accessory uses on the west side of Collins Avenue but would prohibit hotel rooms. The modification will be within the table of uses and will not impact the comprehensive plan.

  
Reviewed by Guillermo Olmedillo

Prepared by: SSG



**Town of Surfside  
Town Commission Meeting  
February 12, 2019  
7:00 pm**

Town Hall Commission Chambers - 9293 Harding Ave, 2<sup>nd</sup> Floor  
Surfside, FL 33154

**DISCUSSION ITEM MEMORANDUM**

**Agenda #:**

**Date: February 12, 2019**

**From: Commissioner Michael Karukin**

**Subject: Prohibit Hotels in H40 zoning district south of 93<sup>rd</sup> Street within the Moderate High Density Residential area of the Future Land use map**

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**Title** – Prohibit Hotels in H40 zoning district south of 93<sup>rd</sup> Street within the Moderate High Density Residential area of the Future Land use map (see figure 1).

**Objective** – Improve residential quality of life by preventing any more large scale hotel projects in an area that is supposed to be reserved for moderate high density residential development.

**Consideration** – In 2009, Comp Plan policy 3.9 was modified (now policy 3.6) expanding the locations of where a “tourist facility” such as a dedicated hotel can be built from only “the east side of Collins Avenue” to the west side, spanning the Collins to Harding corridor covering 2 additional land use categories. As indicated by the tracked changes version of the 2009 EAR report, the Moderate Density Residential Tourist and Moderate High [Density] Residential land use categories were added to the policy thereby increasing the land area that would allow dedicated hotels to be built (see figure 2).

Now that we have some experience with large scale hotel projects, and in order to preserve and protect the residential character of a portion of the city that is supposed to be restricted to moderate high density residential development, and to mitigate the negative consequences to residential quality of life from commercial development in the area due to property aggregation, it seems it is in the best interest of the city to restrict the ability for large dedicated hotels to be built in that portion of the town zoned H40 and covered by the Moderate High [Density] Residential land use category as illustrated in the future land use map FLU-7.

This restriction was attempted in 2016 during the comprehensive plan amendment process but due to the complexities and risks associated with the comprehensive plan approvals from the State, using comp plan as a means to achieve the restrictions did not work. When I asked staff about resurrecting the same request to modify the comp plan, staff reminded me of the State approval process for any comp plan amendments could delay or even make matters

worse. However, staff creatively suggested that this objective can be achieved using zoning code modifications instead.

**Recommendation** – Our rules to direct staff to work on ordinances require direction from the TC. Therefore, I am asking the TC to direct the TM to develop an ordinance for our consideration that restricts hotel projects in the H40 zoning district south of 93<sup>rd</sup> Street within the Moderate High Density Residential area of the Future Land use map for first reading at the March 2019 Commission meeting.

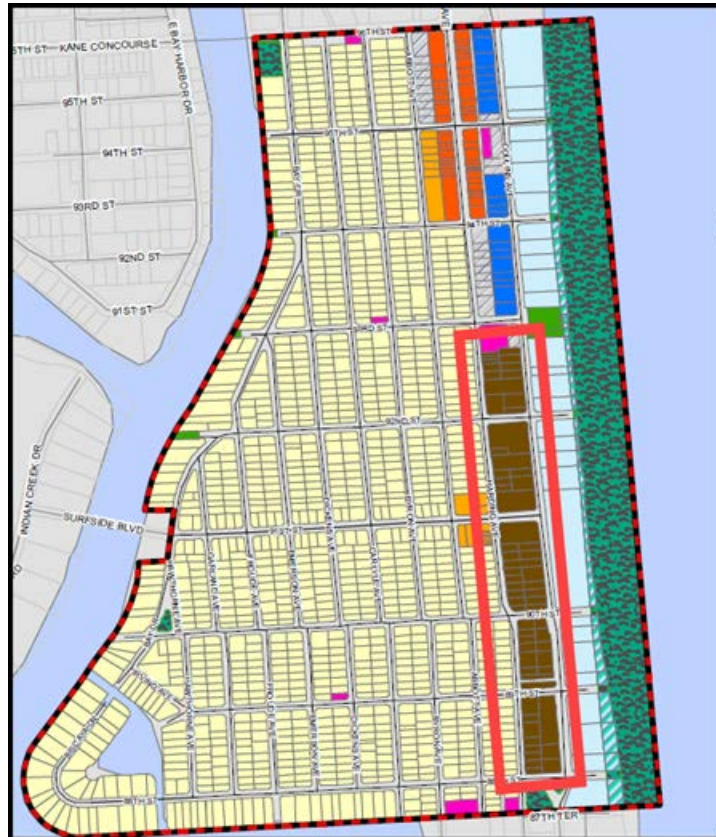


Figure 1 Area of surfside showing moderate high density residential designation

Tracked changed version of old comp plan showing cross out of east side of Collins and addition of other land use categories from 2009 EAR Report.

What was policy 3.9 is now policy 3.6.

~~Policy 3.9-6~~ – ~~The Town shall maintain~~Maintain a future land use map pattern and other development regulations which ~~limits~~limit new tourist facilities to properties ~~on the east side of Collins Avenue~~in the Moderate Density Residential/Tourist, Moderate-High Residential, and High Density Residential/Tourist land use categories.

From 2009 EAR Surfside Comp Plan Amendments.

Figure 2 Tracked change version of comp plan policy 3.9 now policy 3.6

ORDINANCE NO. 19 - \_\_\_\_\_

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-41, "REGULATED USES", TO CHANGE THE LIST OF PERMITTED, CONDITIONAL, AND PROHIBITED USES TO PROHIBIT HOTELS IN THE H-40 ZONING DISTRICT SOUTH OF 93<sup>RD</sup> STREET AND ADDRESS HOTEL ACCESSORY USES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.**

1       **WHEREAS**, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida  
2 Statutes, provide municipalities the authority to exercise any power for municipal purposes,  
3 except where prohibited by law, and to adopt ordinances in furtherance of such authority; and

4       **WHEREAS**, the Town Commission of the Town of Surfside ("Town Commission") finds it  
5 periodically necessary to amend its Code of Ordinances and Land Development Code ("Code") in  
6 order to update regulations and procedures for maintain consistency with state law and to  
7 implement municipal goals and objectives; and

8       **WHEREAS**, on February 12, 2019, the Town Commission directed staff to evaluate and  
9 prepare an ordinance prohibiting hotel use within the H40 zoning district south of 93<sup>rd</sup> Street; and

10       **WHEREAS**, the Planning and Zoning Board, as the local planning agency for the Town,  
11 held its hearing on the proposed amendment on \_\_\_\_\_, 2019 with due public notice and  
12 input; and

13       **WHEREAS**, the Town Commission held its first public hearing on March 12, 2019 and  
14 recommended \_\_\_\_\_ of the proposed amendments to the Code of Ordinances having  
15 complied with the notice requirements by the Florida Statutes; and

16       **WHEREAS**, the Town Commission has conducted a second duly noticed public hearing on  
17 these regulations as required by law on \_\_\_\_\_, 2019 and further finds the proposed  
18 change to the Code necessary and in the best interest of the community.

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<sup>1</sup>Additions to the text are shown in underline. Deletions are shown in ~~strikethrough~~.

20 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF**  
 21 **THE TOWN OF SURFSIDE, FLORIDA<sup>1</sup>:**

22  
 23 **Section 1. Recitals.** The above Recitals are true and correct and are incorporated herein by  
 24 this reference:

25  
 26 **Section 2. Town Code Amended.** Section 90-41. – “Regulated Uses” of the Surfside  
 27 Town Code of Ordinances is hereby amended and shall read as follows<sup>1</sup>:

28 **Sec. 90-41. Regulated uses.**

29 (a) *Purpose.* Permitted uses are considered to be fundamentally appropriate within the district  
 30 in which they are located and are deemed to be consistent with the comprehensive plan.  
 31 These uses are permitted as of right, subject to the required permits and procedures  
 32 described in this section. Permitted uses require final site plan review and approval for  
 33 compliance with the standards applicable to a particular permitted use as provided in this  
 34 zoning code.

35 (b) *Permits required.* Except as explicitly provided herein, no use designated as a permitted use  
 36 in this chapter shall be established until after the person proposing such use has applied for  
 37 and received all required development permits.

38 (c) Table—Regulated uses.

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	H30A	H30B	H30C	H40	H-120	<b>SD-B40</b>
Lodging Uses						
Hotel	-	-	-	P(7) <del>(31)</del>	P(7)	-
<u>Hotel Accessory Uses</u>	-	-	-	<u>P(7)</u>	<u>P(7)</u>	<u>:</u>
Suite Hotel	-	-	-	P(7)	P(7)	-

41 Key: P: Permitted Blank: Not Permitted (#): Refer to Notes CU: Conditional Use

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43 (d) *Uses table notes.*

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<sup>1</sup> Additions to the text are shown in underline. Deletions to the text are shown in ~~strike through~~.

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(7) May provide a beauty/personal services, dining room, and coffee shop, bar or cocktail lounge, telegraph office, tobacco, candy, and newsstand, automobile rentals where rental vehicles are not kept on premises, ready to wear shops, travel agencies, gift and sundry shops, coin operated machines, washing machines, and marble, coin or amusement machines (other than gambling devices), and diet and health spas providing services solely to guests; provided, however, that such facilities may be entered only from the inside of the structure and there shall be no window or evidence of such facilities from outside the hotel or motel.

\* \* \*

(31) Hotels must be located north of 93<sup>rd</sup> Street. Hotels are prohibited south of 93<sup>rd</sup> Street.

\* \* \*

**Section 4. Severability.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

**Section 5. Inclusion in the Code.** It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word “Ordinance” may be changed to “Section” or other appropriate word.

**Section 6. Conflicts.** Any and all Ordinances and Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed.

**Section 7. Effective Date.** This ordinance shall become effective upon adoption.

**PASSED and ADOPTED** on first reading this 12th day of March, 2019.

**PASSED and ADOPTED** on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

On Final Reading Moved by: \_\_\_\_\_

On Final Reading Second by: \_\_\_\_\_

**FINAL VOTE ON ADOPTION:**

83 Commissioner Barry Cohen \_\_\_\_\_  
84 Commissioner Michael Karukin \_\_\_\_\_  
85 Commissioner Tina Paul \_\_\_\_\_  
86 Vice Mayor Daniel Gielchinsky \_\_\_\_\_  
87 Mayor Daniel Dietch \_\_\_\_\_

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Daniel Dietch, Mayor

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92 **ATTEST:**

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95 \_\_\_\_\_  
96 Sandra Novoa, MMC, Town Clerk

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98 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**  
99 **AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

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101 \_\_\_\_\_  
102 Weiss Serota Helfman Cole and Bierman, P.A.  
103 Town Attorney