

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: July 30, 2024

FROM: Thomas R. Mooney, AICP  for TRM
Planning Director

SUBJECT: **PB24-0671.**
RPS-4 Height Incentives for Hotel Conversion to Residential Use.

RECOMMENDATION

Transmit the proposed ordinance to the City Commission with a favorable recommendation.

BACKGROUND

On July 20, 2022, the City Commission adopted Resolution 2022-32255, placing a ballot question regarding a floor area ratio ("FAR") incentive to convert existing hotels into residential use in the R-PS4 district on the November 8, 2022 general election ballot. On November 8, 2022, the ballot measure was approved by 65.66% of the voters.

On May 17, 2023, the City Commission adopted Ordinance No. 2023-4555, codified as Resiliency Code section 7.2.15.2(f)(4), providing an FAR incentive for existing hotel properties in the R-PS4 district that voluntarily convert to a residential use to have a maximum FAR of 2.75, whereas the prior maximum FAR was 2.0.

On May 6, 2024, the applicant, Komar Investments, LLC, owner of the Marriott Stanton South Beach Hotel, located at 161 Ocean Drive, filed an application to amend Section 7.2.15.2(f)(4) of the City's Resiliency Code, to include a height incentive for the conversion of a hotel to residential, within the RPS-4, High Residential Performance Standard zoning district.

REVIEW CRITERIA

Pursuant to Section 2.4.2 of the Resiliency Code, in reviewing a request for an amendment to these land development regulations (LDRs), the board shall consider the following when applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

Consistent – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan.

2. **Whether the proposed change would create an isolated district unrelated to**

adjacent or nearby districts.

Consistent – The proposed amendment does not create a district or change district boundaries.

3. Whether the change suggested is out of scale with the needs of the neighborhood or the city.

Consistent - The proposed ordinance is not out of scale with the previously approved FAR increase.

4. Whether the proposed change would tax the existing load on public facilities and infrastructure.

Consistent – The proposed ordinance will not affect the load on public facilities and infrastructure.

5. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.

Not applicable – The proposed amendment does not modify district boundaries.

6. Whether changed or changing conditions make the passage of the proposed change necessary.

Consistent – The desire to incentivize the conversion from existing hotel uses in the neighborhood to more compatible residential uses makes the passage of the proposed change necessary.

7. Whether the proposed change will adversely influence living conditions in the neighborhood.

Consistent – The proposed ordinance amendment will not adversely affect living conditions in the neighborhood, and should improve living conditions with the conversion to residential uses.

8. Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.

Consistent – The proposed ordinance will not create or increase traffic congestion from what is currently permitted.

9. Whether the proposed change will seriously reduce light and air to adjacent areas.

Consistent – The proposed change should not seriously impact light and air on adjacent areas.

10. Whether the proposed change will adversely affect property values in the adjacent area.

Consistent – The proposed change should not adversely affect property values in

adjacent areas.

11. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.

Consistent – The proposed change should not be a deterrent to the improvement or development of adjacent properties

12. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.

Partially Consistent - While the property can be used in accordance with existing zoning, the purpose of the proposed ordinance is to incentivize the change of use from hotel to residential use.

13. Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.

Not applicable.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 7.1.2.4 of the LDRs establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

(1) Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.

Satisfied – The proposed amendment does affect an area that is vulnerable to the impacts of sea level rise.

(2) Whether the proposal will increase the resiliency of the City with respect to sea level rise.

Satisfied – The proposed amendment will increase the resiliency of the City by encouraging redevelopment of existing properties with hotel uses.

(3) Whether the proposal is compatible with the City’s sea level rise mitigation and resiliency efforts.

Satisfied – The proposed amendment is compatible with the City’s sea level rise mitigation and resiliency efforts.

ANALYSIS

The purpose of the proposed amendment is to further incentivize the conversion of hotels within the RPS-4 zoning district, such as the Marriott Stanton, located at 161 Ocean Drive, to non-transient residential. The replacement of a hotel with a non-transient residential use would reduce the impact of transient hotel uses in the South of Fifth neighborhood.

The Resiliency Code was amended last year to allow existing hotel properties in the RPS-4 district that voluntarily convert to a residential use to have a maximum floor area ratio (FAR) of 2.75, where previously the maximum FAR was 2.0. The main use of the building is required to remain residential, with allowable accessory uses, in perpetuity.

The RPS-4 district includes those properties south of Fifth street, east of Ocean Drive, as well as the Continuum property (see attached zoning and aerial maps). The current regulations that allow for an increase in FAR, applies to properties with a main use of hotel as of January 1, 2022, subject to the property owner's strict compliance with the following conditions:

1. The main use on the property shall be converted to residential and shall remain residential in perpetuity; hostel, hotel, apartment-hotel, and suite-hotel use shall be prohibited.
2. A new structure, consisting solely of main use residential and allowable accessory uses, may be constructed, in accordance with all applicable development regulations, with a maximum FAR of 2.75. Alternatively, the entire existing building may be converted to main-use residential and allowable accessory uses, including any repairs, alterations and modifications that may exceed the 50% rule, provided any alterations and modifications do not result in the building exceeding an FAR of 2.75.
3. A property shall only be eligible for the FAR incentive of 2.75 if the property owner elects, at the owner's sole discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the city attorney, affirming that, in perpetuity, none of the residential units on the property shall be leased or rented for a period of less than six months and one day.
4. There shall be no variances from these provisions.

In addition to the Marriott Stanton, there are two other properties that have hotels in the R-PS4 district that could potentially take advantage of the proposed height incentive, which are the Hilton Bentley Miami/South Beach located at 101 Ocean Drive and the Savoy Hotel & Beach Club located at 425 Ocean Drive (see attached aerial map).

The maximum building height is currently 100 feet for oceanfront lots and the proposed ordinance would increase the maximum building height to 145 feet for properties that convert from a main hotel use to a non-transient residential use. To take advantage of the FAR incentives, as well as the proposed height increase, any existing contributing building must be retained in a manner to be reviewed and approved by the Historic Preservation Board. The applicant is proposing to retain and restore the entirety of the existing 2-story contributing building on the 161 Ocean Drive property.

Included with the application is a massing study, along with a preliminary design concept. The applicant has indicated that due to the increased pedestal setbacks proposed, the incentivized FAR cannot be constructed on the property without an increase in building height. It should be noted that the RPS-4 district has reduced setbacks when compared to other oceanfront zoning districts, such as the RM-3, Residential Multifamily High Intensity zoning district, where a maximum FAR of 3.0 is allowed along with a maximum height of 200 feet. In this regard, the minimum required side and front setbacks in the R-PS4 district are as little as five (5) feet, which may not be adequate for larger residential projects.

Although the applicant has proposed increased side setbacks for the preliminary design concept, as noted in the massing study, these are not the minimum required setbacks under the LDR's. Although the review and approval of the demolition and new construction on the site will be subject to the review and approval of the Historic Preservation Board, adjustments to the location of the

building, including a reduction of side setbacks, could be proposed. To address this, staff recommends that the development regulations in Section 7.2.15.2.f be further amended by increasing the minimum setback requirements in the R-PS4 district.

It should also be noted that staff has not reviewed or provided any design comments regarding the preliminary concepts proposed in the massing study. To this end, significant changes will likely be recommended, especially as it relates to the auto dominated circulation and lack of pedestrian street presence in the proposed concept renderings.

In conclusion, the previously approved increase in FAR from 2.0 to 2.75 represents a 38% increase in allowable square footage for eligible sites. In light of this increase, staff believes that additional building height is warranted, in order to provide more flexibility in the design for a residential project. The proposed height increase from 100 feet to 145 feet is proportional to the additional square footage allowed and would be subject to the review and approval of the Historic Preservation Board. However, in order to ensure that future projects utilizing the additional height have appropriate setbacks, it is recommended that an amendment to Section 7.2.15.2.f be included, to adjust the minimum setback requirements in the R-PS4 district.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the ordinance amendment to the City Commission with a favorable recommendation, inclusive of the following amendment:

7.2.15.2 Residential Performance Standards Districts

* * *

f. Residential Performance Standard Area Requirements (R-PS)

* * *

BUILDING SETBACKS				
Front Setback (feet) (A)	R-PS1	R-PS2	R-PS3	R-PS4
Subterranean	5 feet			
Pedestal	5 feet (1) (2)			
Tower	50 feet			60 feet – within the Ocean Beach Historic District (however, for residential apartment structures seeking approval under section 7.2.15.2.f.3 below, the tower setback shall be determined by the historic preservation board.) (3)
Side, Facing a Street Setback (feet) (B)	R-PS1	R-PS2	R-PS3	R-PS4
Subterranean	5 feet			
Pedestal	5 feet (1)			
Tower	The required pedestal setback plus 10% the height of the building. (3)			
Side, Interior Setback (feet) (C)	R-PS1	R-PS2	R-PS3	R-PS4
Subterranean				

Pedestal	7.5 feet - except when (4) below applies. 5 feet - Lots 50 feet wide or less 15 feet - on lots greater than 50 feet in width - for any portion of the pedestal above 35 feet in height - (for residential apartment structures seeking approval under section 7.2.15.2.f.3 below) (4)			
Tower	The required pedestal setback plus 10% the height of the building 15 feet - for residential apartment structures seeking approval under section 7.2.15.2.f.3 below (3)			
Rear Setback (feet) ①	R-PS1	R-PS2	R-PS3	R-PS4
Subterranean	10% of lot depth – Nonoceanfront lots			
Pedestal	20% of lot depth, 50 feet minimum from bulkhead line – Oceanfront Lots			
Tower	15% of lot depth – Nonoceanfront lots 25% of lot depth, 75 feet minimum from bulkhead line – Oceanfront lots however, for residential apartment structures seeking approval under section 7.2.15.2.f.3 below, the tower setback shall be the same as the pedestal setback. (3)			

* * *

- (1) All required setbacks shall be considered as minimum requirements except for the pedestal front yard setback and pedestal side yard facing a street setback which shall be considered as both minimum and maximum requirements.
- (2) For lots greater than 100 feet in width the front setback shall be extended to include at least one open court with a minimum area of 3 square feet for every linear foot of lot frontage.
- (3) In the R-PS4 zoning district, within the Ocean Beach historic district, the tower portion of ground-floor additions to contributing buildings shall meet a line-of-sight, which for the purpose of this section is defined as not visible when viewed at eye-level (5 feet and 6 inches from grade) from the opposite side of the adjacent right-of-way.
- (4) In the R-PS4 zoning district within the Ocean Beach historic district, when an existing contributing structure has a minimum 5-foot side yard setback, the setback of new construction in connection with the existing building may be allowed to follow the existing building line. The maintenance of the existing setback shall apply to the linear extension of the existing building. Notwithstanding the above, for residential apartment structures seeking approval under section 7.2.15.2.f.4 below, with a building height of over 100 feet, the minimum pedestal side setback shall be 7.5 feet for any portion of the pedestal below 35 feet in height, and shall be 15 feet for any portion of the pedestal above 35 feet in height.

* * *

Zoning



0 125 250 500 Feet



Location:
R-PS4 District with Transient Uses

Aerial



0 125 250 500 Feet



Location:
R-PS4 District with Transient Uses

**High Density Residential Performance Standard (R-PS4) -
Height Incentive for Conversion from Hotel to Residential Use**

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH CHAPTER 7, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," AT DIVISION 15, "PERFORMANCE STANDARD DISTRICT (PS)," SECTION 7.2.15.2, "RESIDENTIAL PERFORMANCE STANDARD DISTRICTS (R-PS)," TO PROVIDE HEIGHT INCENTIVES TO ENCOURAGE THE REDEVELOPMENT OF HOTELS INTO RESIDENTIAL STRUCTURES BY PROVIDING SUCH PROPERTIES WITH A HEIGHT BONUS IF NO SHORT-TERM RENTALS ARE PROVIDED FOR PROPERTIES ZONED R-PS4; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the predominant zoning in the South of Fifth neighborhood is RPS, Residential Performance Standard Zoning which is designed to encourage primarily residential uses south of Fifth Street except for limited commercial zoning on the perimeters of the neighborhood; and

WHEREAS, the South of Fifth Neighborhood has developed over the past 30 years as an attractive pedestrian friendly residential neighborhood; and

WHEREAS, the increase in transient uses has adversely impacted the quality of life for the neighborhood; and

WHEREAS, the South of Fifth residential community wishes to transition existing hotel uses to residential uses to minimize impacts of transient uses on the community; and

WHEREAS, on November 8, 2022, and pursuant to Resolution No. 2022-32255, over 65 percent of City voters approved the .75 FAR incentive currently codified in section 7.2.15.2 (f) of the Resiliency Code; and

WHEREAS, the intent of the codified FAR incentive is to encourage existing hotels and transient uses in the R-PS4 zoning district to transition to residential uses that are compatible with the South of Fifth Neighborhood; and

WHEREAS, the existing FAR incentive is practically unusable on qualifying properties because of existing historic buildings and setback regulations; and

WHEREAS, for the FAR incentive to accomplish its intended purpose of motivating owners of transient uses to transition to residential uses additional height is needed to accommodate the extra floor area; and

WHEREAS, on March 5, 2024, this proposal was presented to the South of Fifth Neighborhood Association whose executive board, after a public meeting of neighborhood residents, passed a resolution supporting the initiative; and

WHEREAS, to incentivize the construction of residential uses to replace existing hotels within the South of Fifth Neighborhood, it is necessary to amend section 7.2.15.2 (f) of the Resiliency Code to provide additional height to allow the incentive to accomplish its intended purpose; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. Chapter 7, "Zoning Districts and Regulations," Article II, "District Regulations," Division 15, "Performance Standard District (PS)," of the Resiliency Code of the City of Miami Beach is hereby amended as follows:

7.2.15 PERFORMANCE STANDARD DISTRICT (PS)

* * *

7.2.15.2 Residential Performance Standards Districts

* * *

f. Residential Performance Standard Area Requirements (R-PS)

* * *

4. *Voluntary FAR and height incentive for conversion from hotel to residential use.* Notwithstanding the foregoing FAR and height limitations, for a property with a main use of hotel as of January 1, 2022, which, as built, exceeds an FAR of 2.0 and is located within the R-PS4 zoning district, the maximum FAR may be increased to 2.75 and the maximum height may be increased to 145 feet as a voluntary development incentive, subject to the property owner's voluntary agreement to strictly comply with the following conditions:

- A. The main use on the property shall be converted to residential and shall remain residential in perpetuity; hostel, hotel, apartment-hotel, and suite-hotel use shall be prohibited.
- B. A new structure, consisting solely of main-use residential and allowable accessory uses, may be constructed, in accordance with all applicable development regulations, with a maximum FAR of 2.75 and maximum height of 145 feet. Alternatively, the entire existing building may be converted to main-use residential and allowable accessory uses including any repairs, alterations and modifications that may exceed the 50% rule (as set forth in Section 2.12.7 and Section 2.12.8), provided any alterations and modifications do not result in the building exceeding an FAR of 2.75.
- C. A property shall only be eligible for the FAR and height incentives set forth in the subsection, not to exceed a total FAR of 2.75 and a total height of 145 feet, if the property owner's elects, at the owner's sole discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the city attorney,

affirming that, in perpetuity, none of the residential units on the property shall be leased or rented for a period of less than six months and one day.

D. Any existing contributing building shall be retained in a manner reviewed and approved by the Historic Preservation Board.

E. There shall be no variances from the subsection (c).

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Resiliency Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this _____ day of _____, 2024.

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado
City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading:
Second Reading:

Verified by: _____
Thomas R. Mooney, AICP
Planning Director

Underscore denotes new language
~~Strikethrough~~ denotes removed language