MIAMI BEACH
PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: March 23, 2021

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB20-0389. RM-2 Amendments to Properties of Ten Acres or More.**

An Ordinance of the Mayor and City Commission of the City of Miami Beach, Florida, amending the Code of the City of Miami Beach, Subpart B, entitled "Land Development Regulations," by amending Chapter 142, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," Division 3, entitled "Residential Multifamily Districts," Subdivision IV, entitled "RM-2 Residential Multifamily, Medium Intensity," by amending Section 142-217, entitled "Area Requirements," and Section 142-218, entitled "Setback Requirements," to increase the maximum building height and reduce required setbacks on certain properties that are ten acres or larger in size; and providing for Codification, Repealer, Severability, and an Effective Date.

RECOMMENDATION

Transmit the proposed ordinance amendment to the City Commission with an unfavorable recommendation.

BACKGROUND

The applicant, MCZ/Centrum Flamingo II, LLC and MCZ/Centrum Flamingo III, LLC, filed a private application for an amendment to sections 142-217 and 142-218 of the Land Development Regulations (LDRs), pursuant to the requirements of Chapter 118, Article III of the LDRs.

On October 27, 2020, the Planning Board continued the item to the November 17, 2020 meeting at the request of the applicant. On November 17, 2020, the Planning Board continued the item to the December 14, 2020 meeting at the request of the applicant.

On December 14, 2020, the Planning Board continued the item to the March 23, 2021 meeting at the request of the applicant.

ZONING/SITE DATA

Area:	15.97 acres (852,469.2 square feet)
Zoning:	RM-2 Residential Multifamily, Medium Density & RM-3 Residential Multifamily, High Density
Overlay:	West Avenue Bay Front Overlay
Future Land Use Designation:	Medium Density Multi Family Residential (RM-2) &

High Density Multi Family Residential (RM-3)

Surrounding Uses: See maps at the end of the report.

North: Multifamily residential Apartments (RM-2/Gilbert M. Fein Neighborhood Conservation Overlay District/West Avenue Bay Front Overlay)

East: Multifamily residential Apartments (RM-1/West Avenue Bay Front Overlay)

South: Multifamily residential Apartments (RM-3)

West: Biscayne Bay

REVIEW CRITERIA

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, 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 an isolated district unrelated to adjacent or nearby districts.

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

   Inconsistent - The proposed ordinance amendment as drafted is out of scale with the surrounding neighborhood, as it would allow for much taller development than what is possible on adjacent sites.

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 as the maximum FAR is not modified.

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.**

Inconsistent – The site can be developed under existing regulations.

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

   Inconsistent – The proposed ordinance amendment could adversely affect living conditions in the neighborhood as proposed.

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 change will not create or increase traffic congestion from what is currently permitted, as the FAR is not being modified.

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

   Inconsistent – The proposed change can reduce light and air to adjacent areas as proposed.

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 the 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 properties in the City.

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

    Inconsistent – The property could be developed with the existing zoning regulations.

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 133-50(b) of the Land Development Regulations 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.**

Partially Consistent – The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term.

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

Consistent – The proposal could improve the resiliency of the City with respect to sea level rise by allowing for new development of a new structure that is more resilient to the impacts of sea level rise.

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

Consistent – The proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

ANALYSIS

The applicant, *MCZ/Centrum Flamingo II, LLC* and *MCZ/Centrum* and *Flamingo III, LLC*, owns the properties located at 1420 and 1508 Bay Road, which are commonly known as Flamingo Point. The site is approximately 15.97 acres and contains three towers and a mixed-use parking garage. The northern portion of the site is within the RM-2 zoning district and the West Avenue Bay Front Overlay, and the southern portion of the site is located in the RM-3 zoning district.

The applicant is proposing amendments to sections 142-217 and 142-218 of the LDR"s, which would only apply to properties fronting Biscayne Bay with split zoning of RM-2 and RM-3 and are larger than 10 acres. The following is a summary of the proposed LDR amendments:

1. Increase the maximum building height from 140 feet to *300 feet*.

2. Modify the side, interior subterranean and pedestal setbacks which is a *minimum 10 feet or 8% of lot width, whichever is greater, and sum of the side yards shall equal 16% of lot width* to allow for *a minimum sum of side yards in the RM-2 portion of a property equal to 27 feet, 5 inches.* If a smaller tower setback is allowed.

3. Modify the side, interior tower setback from *the required pedestal setback plus 0.10 of the height of the tower portion of the building* and *the total required setback shall not exceed 50 feet* by allowing that the tower *may follow the pedestal setback of 27 feet, 5 inches for a maximum of 25% of the length of the side property line*.

Planning staff does have concerns with the proposed increase in height and reductions in minimum setbacks. The following is a summary of each of these concerns:

Height

The current height limit of 140 feet was established in 1997 as part of ordinance 97-3097. Prior to that, the RM-2 district had no height limits. In 1998, the height limits were further modified as part of ordinance 98-3150 so that the 140-foot limit would only apply to sites fronting Biscayne Bay that are over 45,000 square feet. For lots fronting Biscayne Bay that are less than 45,000 square feet the height limit is 100 feet and all lots not fronting Biscayne Bay have a height limit of 60 feet.

As the subject site is greater than 45,000 square feet it currently has a height limit of 140 feet. There are six parcels immediately abutting the northern lot line of the subject site. One parcel

adjacent to the site and Biscayne Bay is greater than 45,000 square feet, and thus subject to the 140-foot limit. The remaining parcels are between 4,500 and 5,250 square feet and have a height limit of 60 feet. Additionally, the area immediately to the north of the subject site is within the Gilbert M. Fein Neighborhood Conservation Overlay District (NCD), which is intended to preserve and maintain key elements of the neighborhood's character.

The area to the east of the site is within the RM-1 district, which has a height limit of 50 feet. The RM-1 area consists primarily of two to five story apartment buildings. The area to the immediate south of the subject site is zoned RM-3 and includes the Flamingo central tower within the same unified parcel. This central tower has a height of approximately 338 feet and was permitted prior to the adoption of the current height limits in 1998.

Although the proposed ordinance is compatible with the built context to the south, the proposed 300-foot height limit would allow for building heights that are more than double what is allowed and built on adjacent sites to the north and east. This is incompatible with much of the surrounding context, which consists primarily of low-scale apartment buildings.

A tower at 300 feet in height on the subject site could impact air and light from adjacent sites. During the fall and winter months when the sun sits lower in the sky, the potential exists for such a building to cast shadows on adjacent properties to the north and east. It would also create an odd condition where the lower intensity RM-2 district has a taller height limit that the adjacent higher intensity RM-3 district. This would create an inappropriate transition from the higher intensity areas to the south and the lower intensity areas to the north and east.

Setbacks

The proposed setbacks would allow for the pedestal and tower of the building to be located further to the north and therefore closer to the adjacent parcels than what is currently allowed. The affected RM-2 area of the proposer's site is approximately 235 feet wide. Since the site's existing buildings have no setbacks to the south, under the existing regulations, the development would be required to provide its sum of side yard setbacks entirely on the northern portion of the property, which would be a minimum of 27.6 feet. The proposal would not result in a modified the sum of side yard setback requirement at the pedestal level.

However, under current regulations, the tower portion would be allowed to maintain the pedestal setback up to 50 feet in height, while above 50 feet, the tower must be setback an additional 10% of the height of the tower portion of the building, which in this case would result in an additional tower setback of 25 feet. However, under the proposed ordinance, the tower portion would be allowed to follow the pedestal setback of 27.6 feet for 25% of the length of the property line. This would increase the potential impacts of the additional height because the pedestal and tower could be located even closer to the adjacent lower-scale areas.

Summary

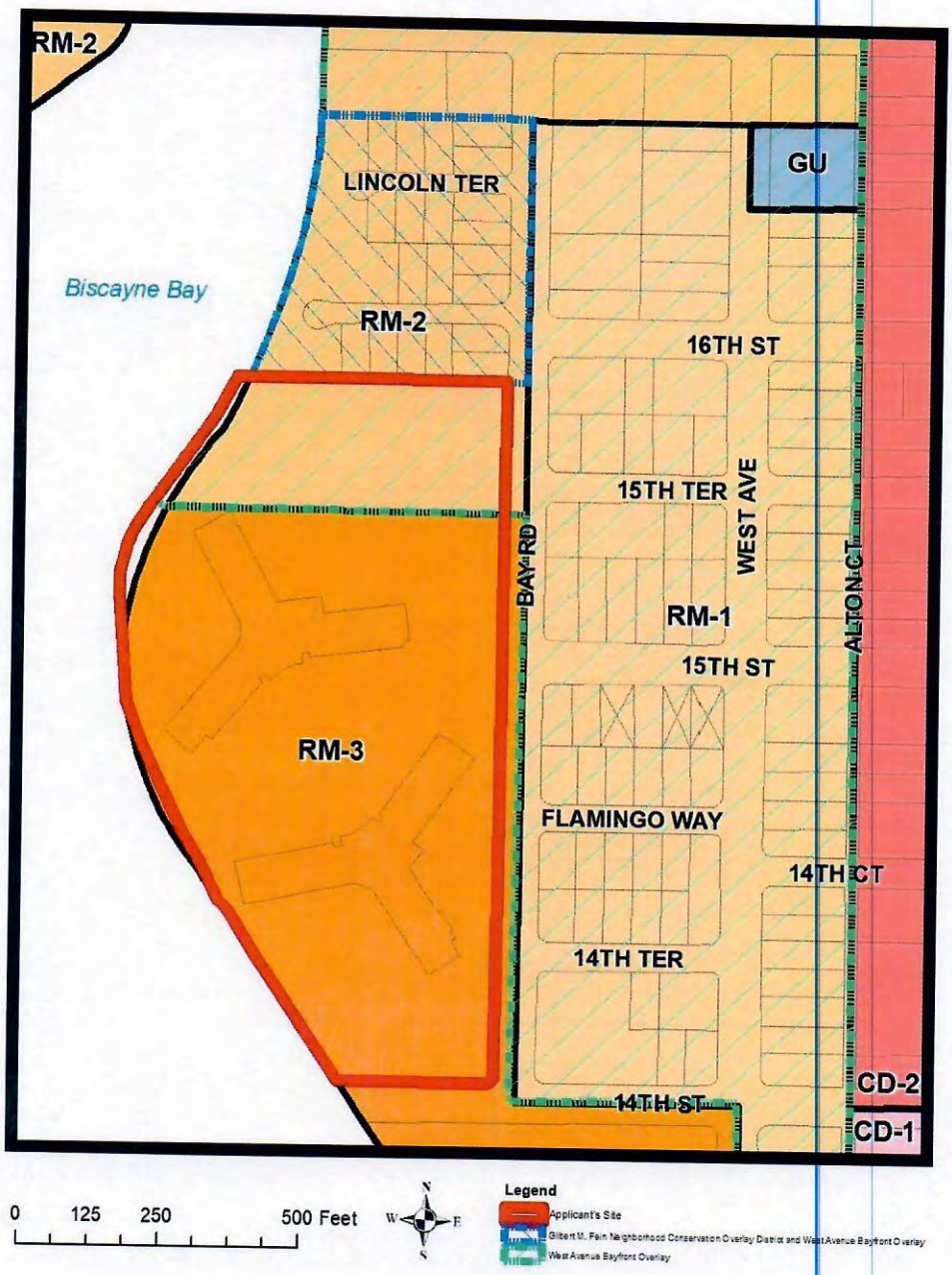
The additional height and reduction in pedestal and tower setbacks have the potential to negatively impact the adjacent areas to the north and east which are of a considerably lower height and scale. Since the site is to the south of a lower-scale neighborhood, the potential exists for a future tower to cast shadows and block views for those neighbors. Additionally, the proposed height increase does not allow for an appropriate transition from the higher intensity RM-3 area to the south and the lower-scale RM-2 area within the Gilbert M. Fein NCD to the north.

In conclusion, staff is not supportive of the height and setback modifications currently proposed and recommends that the ordinance be transmitted to the City Commission with an unfavorable recommendation.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance amendment to the City Commission with an unfavorable recommendation.

Zoning


RM-2
LINCOLN TER
GU
Biscayne Bay
RM-2
16TH ST
15TH TER
WEST AVE
BAY RD
ALTON CT
RM-1
15TH ST
RM-3
FLAMINGO WAY
14TH CT
14TH TER
CD-2
14TH ST
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0
125
250
500 Feet
N
W
E
S
Legend
Applicant's Site
Gilbert M. Fein Neighborhood Conservation Overlay District and West Avenue Bayfront Overlay
West Avenue Bayfront Overlay

Aerial

LINCOLN TER
GU
Biscayne Bay
RM-2
16TH ST
15TH TER
WEST AVE
BAY RD
ALTON CT
RM-1
15TH ST
RM-3
FLAMINGO WAY
14TH CT
14TH TER
CD-2
CD-1
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community
0
125
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Legend
Applicant's Site
Gilbert M. Fein Neighborhood Conservation Overlay District and West Avenue Bayfront Overlay
West Avenue Bayfront Overlay

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 3, ENTITLED "RESIDENTIAL MULTIFAMILY DISTRICTS," SUBDIVISION IV, ENTITLED "RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY," BY AMENDING SECTION 142-217, ENTITLED "AREA REQUIREMENTS," AND SECTION 142-218, ENTITLED "SETBACK REQUIREMENTS," TO INCREASE THE MAXIMUM BUILDING HEIGHT AND REDUCE REQUIRED SETBACKS ON CERTAIN PROPERTIES THAT ARE TEN ACRES OR LARGER IN SIZE; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (the "City") has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, in recent years the City has prioritized resilience and improvements to stormwater management; and

WHEREAS, properties developed with buildings with smaller footprints and greater permeable area drain more effectively and contribute less to the City's stormwater management system; and

WHEREAS, taller and more slender buildings have smaller impermeable footprints and therefore allow for developed properties to provide increased permeable areas through the use of native landscaping, bioswales, and permeable materials; and

WHEREAS, the Urban Land Institute's 2018 Stormwater Management and Climate Adaptation Review recommended changes to the City's Land Development Regulations that incentivize taller buildings to mitigate stormwater and sea level rise impacts; and

WHEREAS, properties located within the RM-2 District that front Biscayne Bay and the east of West Avenue are among the lowest elevated properties in the City; and

WHEREAS, incentivizing taller buildings in this area furthers the Urban Land Institute's recommendations by incentivizing taller development that preserves permeable area in an area of the City that is vulnerable to flooding; and

WHEREAS, certain properties of ten (10) acres or more, fronting Biscayne Bay, and with split RM-2 and RM-3 zoning are vested with significant development rights; and

WHEREAS, the existing RM-2 District regulations impose a 140-foot height limitation that forces vested development rights to be distributed horizontally on properties rather than vertically; and

WHEREAS, the current 140-foot height limitation in the RM-2 District results in the development of short and squat buildings that maximize lot coverage and minimize permeable area; and

WHEREAS, the current side yard setback requirements that increase the required setback with increasing height also limit development to short and squat buildings; and

WHEREAS, development of such short and squat buildings is detrimental to the City's resilience and stormwater management objectives; and

WHEREAS, development of taller more slender buildings provides numerous public benefits in comparison to the development permitted under the current RM-2 regulations, including enhanced views of Biscayne Bay from taller buildings, larger view corridors to Biscayne Bay that mitigate impacts on views from neighboring properties, cast a more slender shadow, and provide more expansive views from public rights of way; 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 142, "Zoning Districts and Regulations," at Article II, entitled "District Regulations," at Division 3, entitled "Residential Multifamily Districts" of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

CHAPTER 142
ZONING DISTRICTS AND REGULATIONS

ARTICLE II
DISTRICT REGULATIONS

* * *

DIVISION 3
RESIDENTIAL MULTIFAMILY DISTRICTS

* * *

SUBDIVISION IV
RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY

* * *

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Sec. 142-217. - Area requirements.

The area requirements in the RM-2 residential multifamily, medium intensity district are as follows:

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
7,000	50	New construction—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—400 Hotel units: 15%: 300—335 85%: 335+ For hotel structures located within the Collins Park District, generally bounded by the erosion control line on the east, the east side of Washington Avenue on the west, 23rd Street on the north, and 17th Street on the south, hotel units shall be a minimum of 200 square feet. For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration and sizes of at least 200 square feet shall be	New construction—800 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—550 Hotel units—N/A	Historic district—50 (except as provided in section 142-1161) Area bounded by Indian Creek Dr., Collins Ave., 26th St., and 44th St.—75 Area fronting west side of Collins Ave. btwn. 76th St. and 79th St.—75 Area fronting west side of Alton Rd. between Arthur Godfrey Rd. and W. 34th St.—85 Otherwise—60 For properties outside a local historic district with a ground level consisting of non-habitable parking and/or amenity uses—65 Lots fronting Biscayne Bay less than 45,000 sq. ft.—100 Lots fronting Biscayne Bay over 45,000 sq. ft.—140

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
		permitted. Additionally, the existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons.		Properties fronting Biscayne Bay with split zoning of RM-2 and RM-3 larger than 10 acres in size may increase height up to a maximum building height of 300 ft. Lots fronting Atlantic Ocean over 100,000 sq. ft.—140 Lots fronting Atlantic Ocean with a property line within 250 feet of North Shore Open Space Park Boundary—200

Sec. 142-218. - Setback requirements.

The setback requirements in the RM-2 residential multifamily, medium intensity district are as follows:

	Front	Side, Interior	Side, Facing a	Rear
At-grade parking lot on the same lot except where (b) below is applicable	20 feet	Single lots less than 65 feet in width: 5 feet, otherwise 10 feet, or 8% of lot width, whichever is greater	Single lots less than feet in width: 5 feet, otherwise 10 feet, or 8% of lot width, whichever is greater	Abutting an alley—5 feet Oceanfront lots—50 feet from bulkhead line
Subterranean and pedestal	20 feet Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231-237 of the Amended Plat of First Ocean Front Subdivision—50 feet	Single lots less than 65 feet: 7.5 feet Lots equal or greater than 65 feet in width: Minimum 10 feet or 8% of lot width, whichever is greater, and sum of the side yards shall equal 16% of lot width. Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks. Notwithstanding the foregoing and the requirements of Section 118-395(b), properties fronting Biscayne Bay with split zoning of RM-	Lots equal or greater than 65 feet in width: Minimum 10 feet or 8% of lot width, whichever is greater, and sum of the side yards shall equal 16% of lot width	Non-oceanfront lots—10% of lot depth Oceanfront lots—20% of lot depth, 50 feet from the bulkhead line whichever is greater. Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.

	Front	Side, Interior	Side, Facing a Street	Rear
		2 and RM-3 larger than 10 acres in size that provide a smaller tower setback as allowed and described further below, may have a minimum sum of side yards in the RM-2 portion of a property equal to 27 feet, 5 inches.		
Tower	20 feet + 1 foot for every 1 foot increase in height above 50 feet, to a maximum of 50 feet, then shall remain constant. Except lots A and 1—30 of the Amended Plat Indian Beach Corporation Subdivision and lots 231—237 of the Amended Plat of First Ocean Front Subdivision—50 feet. Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.	Same as pedestal for structures with a total height of 60 feet or less. The required pedestal setback plus 0.10 of the height of the tower portion of the building. The total required setback shall not exceed 50 feet. Notwithstanding the foregoing, rooftop additions to contributing structures in a historic district and individually designated historic district buildings may follow existing nonconforming side, interior pedestal setbacks. Notwithstanding the foregoing and the requirements of Section 118-395(b), properties fronting	Sum of the side yards shall equal 16% of the lot width Minimum—10 feet or 8% of lot width, whichever is greater	Non-oceanfront lots—15% of lot depth Oceanfront lots—25% of lot depth, 75 feet minimum from the bulkhead line whichever is greater. Notwithstanding the foregoing, rooftop additions to non-oceanfront contributing structures in a historic district and individually designated historic buildings may follow existing nonconforming rear pedestal setbacks.

	Front	Side, Interior	Side, Facing a	Rear
		Biscayne Bay with split zoning of RM-2 and RM-3 larger than 10 acres in size may provide a Side Interior Setback of 27 feet, 5 inches for a maximum of 25% of the length of the side property line.		

SECTION 2. REPEALER.

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

SECTION 3. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

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 _____ , 2021.

_____
Dan Gelber, Mayor

ATTEST:

_____
Rafael E. Granado, City Clerk

APPROVED AS TO FORM
AND LANGUAGE AND
FOR EXECUTION

_____
City Attorney Date

First Reading: , 2021

Second Reading: , 2021

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

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