

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: August 18, 2021

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: **PB21-0459. Prohibition of Apartment Hotels in R-PS1 and R-PS2 District.**

RECOMMENDATION

Transmit the proposed Ordinance amendment to the City Commission with a favorable recommendation.

HISTORY

On July 28, 2021, at the request of Commissioner Mark Samuelian, Commissioner Steven Meiner, Commissioner Michael Gongora and Mayor Dan Gelber, the City Commission referred the proposed Ordinance to the Planning Board (item R9 M).

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, including the regulations in the R-PS-1 and R-PS-2 future land use categories

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.**

Consistent - The proposed ordinance amendment does not modify the scale of development.

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.

Consistent – Impacts on the quality of life of residents due to great increases in the number of tourists within the City makes 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. It is intended to preserve the quality of life for residents.

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 by this ordinance and the intensity of uses is not proposed to be increased.

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

Consistent – The proposed change would not reduce light and air to 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 the adjacent areas. The proposal will improve the quality of life for residents, thus positively affecting property values of residential units in the surrounding area.

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.

Not applicable.

- 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.**

Partially Consistent – The proposal should not impact the resiliency of the City with respect to 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 R-PS1 and R-PS2 (Residential Performance Standard 1 and 2) districts are located in the South of Fifth neighborhood. As noted on the attached zoning map, these 2 districts are bounded by Michigan Avenue on the west, 4th Street on the north, Washington Avenue on the east and 2nd Street on the south. Most of the R-PS2 district, and a small portion of the R-PS1 district, also fall within the boundaries of the Ocean Beach Local Historic District; see attached map.

Under the current requirements of the Land Development Regulations (LDRs) of the City Code, hotels, suite hotels, and the short-term rental of residential apartment units are prohibited in the R-PS1 and R-PS2 districts. As such, these districts consist largely of residential apartment buildings and have maintained a strong residential character.

However, the LDRs do allow for apartment hotels in these districts, which are defined as follows under Sec. 114-1:

Apartment hotel means a building containing a combination of suite hotel unit, apartment

units and hotel units, under resident supervision, and having an inner lobby through which all tenants must pass to gain access. An apartment hotel must contain at least one unit apartment.

Apartment hotels were included as a definition in the LDR's some time ago in order to better identify buildings that had a balanced mix of apartment and hotel units. When areas of the City were more seasonal, these types of buildings were popular as some of the units would be occupied during the late fall, winter and early spring months, for seasonal visitors. Now, however, the use is being exploited in primarily residential districts by only including a single residential unit, thus circumventing prohibitions on hotel and short-term rental uses.

Apartment hotel uses have provided options for older, historically significant buildings to be renovated, preserved and restored. However, the number of apartment hotel conversions over the last couple of years within the RPS-2 district has negatively impacted existing residential apartment uses, as well as the residential character of the RPS-1 and RPS-2 districts. In this regard, the transient nature of apartment hotels is incompatible with a low-scale area composed primarily of residential apartments as the apartment hotel use has become a defacto hotel. Specifically, by having only a single residential unit within a building, an apartment hotel has the potential to change the character of the neighborhood as most of the units are hotels, which can be leased daily. Additionally, given the scale of the neighborhood, apartment hotels have begun to negatively impact the quality of life for residents who reside in these districts on a non-transient basis.

There are a number of other districts within the South of Fifth Neighborhood that permit apartment hotel uses, including the R-PS3, R-PS4 and C-PS2 districts; these districts also permit hotels and the short term rental of apartment units. As such, the removal of apartment hotels as an allowable use in the R-PS1 and R-PS2 districts will not have any negative repercussions in terms of a balance of uses in the larger area.

In order to preserve the character of these residential areas, the proposed Ordinance amends section 142-693 of the LDRs to prohibit "apartment hotels" in the R-PS-1 and R-PS-2 districts. This change is consistent with the existing prohibitions of other types of transient uses within the neighborhood.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed Ordinance amendment to the City Commission with a favorable recommendation.

Zoning Map



Prohibition of Apartment Hotels in R-PS1 AND R-PS2 District

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 OF THE CITY CODE ENTITLED "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," DIVISION 18, ENTITLED "PS PERFORMANCE STANDARD DISTRICT," BY AMENDING SECTION 142-693, ENTITLED "PERMITTED USES," TO PROHIBIT APARTMENT HOTELS IN THE R-PS1 AND R-PS2 DISTRICTS; 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, the City seeks to reduce the impacts of transient uses in the R-PS1 and R-PS2 districts; and

WHEREAS, the current R-PS1 and R-PS2 regulations permit apartment hotels; 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 18, entitled "PS Performance Standard District" 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

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ARTICLE II. – DISTRICT REGULATIONS

* * *

DIVISION 18. – PS PERFORMANCE STANDARD DISTRICT

* * *

Sec. 142-693. - Permitted uses.

(a) The following uses are permitted in the performance standard districts:

General Use Category	R-PS 1, 2	R-PS 3, 4	C-PS 1, 2, 3, 4	RM-PS1
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Single-family; townhome; apartment; apartment hotel pursuant to section 142-1105 of this chapter	P <u>Apartment hotel not permitted</u>	P	P	P Apartment hotel not permitted
Hotel and suite hotels pursuant to section 142-1105 of this chapter	N	P	P	N
Hostel, pursuant to section 142-1105 of this chapter	N	N	Not permitted in C-PS1, C-PS2; Permitted in C-PS3 and C-PS4	N
Commercial	N	N	P	P 8% of floor area
Institutional	C	C	C	C 1.25% of floor area
Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is adjacent to a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized	N	N	P* North of 5th Street only.	N

between 8:00 p.m. and 8:00 a.m.				
Entertainment establishments, outdoor entertainment establishments, and open air entertainment establishments	N	N	N	N
Neighborhood impact establishments	N	<p>N</p> <p>However, in the R-PS4 district, this use is permitted, as an accessory use in oceanfront hotels with 250 or more hotel units, as a conditional use. Access to the establishment entrance shall be only from the interior lobby of the hotel and not from the street. <u>In addition, in the R-PS4 district, this use is also permitted as an accessory use to an oceanfront apartment building with more than 300 units that is adjacent to a park, as a conditional use, provided that the accessory use is located in a separate building from the primary use, and the accessory use is a minimum of 8,000 square feet in size.</u></p>	C	N
Accessory	P*	P*	P*	P*
Alcoholic beverage				

	establishments pursuant to the regulations set forth in chapter 6 are prohibited in the RPS-1 district, unless otherwise specified.			
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P—Main permitted use C—Conditional use N—Not permitted

* — Accessory use only

Floor area in the RM-PS1 district refers to total floor area in project. Commercial uses in RM-PS1 limited to stores and restaurants.

SECTION 2. REPEALER.

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

SECTION 3. SEVERABILITY.

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

SECTION 4. 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 Miami Beach City Code. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on the _____ day of _____ 2021.

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: September 17, 2021
Second Reading: October 13, 2021

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

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