

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: April 26, 2022

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB22-0511 – ORD – R-PS-1 and R-PS-2 Apartment-Hotel Conversion Incentives – Comprehensive Plan Amendment.**

PB22-0500 – ORD – R-PS1 and R-PS2 Apartment-Hotel Conversion Overlay – LDR Amendment

RECOMMENDATION

Transmit the Comprehensive Plan and Land Development Regulations amendments to the City Commission with a favorable recommendation.

HISTORY

On September 17, 2021, at the request of Commissioner Mark Samuelian, the City Commission referred a discussion item to the Land Use and Sustainability Committee (LUSC) pertaining to quality-of-life strategies for dealing with future and existing apartment hotels in the South of Fifth area (C4G). On October 19, 2021, the LUSC discussed and continued the item to the December 2021 LUSC meeting with direction to the Administration to study potential strategic increases in FAR and height within the R-PS1 and R-PS2 districts for the limited purpose of incentivizing the conversion of existing apartment hotels to residential use.

The December 2021 LUSC meeting did not take place, as Commission Committees had not been appointed. The item was automatically deferred to the first available meeting of 2022. On February 11, 2022 the LUSC discussed the proposal for strategic increases in FAR and height within the R-PS1 and R-PS2 districts and recommended that the draft Ordinance prepared by the Administration be moved to the City Commission for referral to the Planning Board. Additionally, the LUSC recommended the following:

1. The addition of an express prohibition on the short-term rental of any apartment units.
2. A 3-year sunset provision.

On March 9, 2022, the City Commission referred the proposed amendment to the Planning Board for review and recommendation (Item C4 B).

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.**

Partially Consistent – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan, as proposed to be amended.

- 2. Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

Consistent – The proposed amendment does not amend district boundaries nor 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 modestly affects the scale of development within the seven affected parcels in the South of Fifth neighborhood. However, these increases are intended to incentive uses that will reduce negative impacts to the quality of life of residents in the neighborhood.

- 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 increases in the maximum floor area ratio (FAR) and density will result in a de minimis impact on the public facilities in the affected neighborhood (See section titled *Impact Analysis* below). However, an analysis will take place for each property that takes advantage of the proposed incentives.

- 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 affected neighborhood 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 positively affect living conditions

in the neighborhood as it is intended to incentivize reduce the impacts related to tourism in the affected neighborhood.

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 create minimal increases in peak hour traffic. It should not increase traffic congestion or otherwise affect public safety (See section titled *Impact Analysis* below). However, a traffic impact analyses for new developments shall be required pursuant to the requirements for the land use board processes.

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

Consistent – The proposed change may modestly reduce light and air to adjacent areas beyond what is currently allowed, as slight height increases are proposed for the seven affected parcels. However, these impacts will be addressed on a case-by-case basis through the land use board process.

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

Consistent – The proposed change will 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 will 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.

Consistent – The proposal will increase the resiliency of the City with respect to sea level rise by encouraging improvements to existing buildings in a manner that will comply with the City’s resiliency requirements.

(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

On October 13, 2021, the City Commission adopted ordinance no. 2021-4448, which removed apartment-hotels from the list of permitted uses for the R-PS1 and R-PS2 zoning districts. This Ordinance was adopted to address the impacts from apartment-hotels in this predominately low-scale multifamily residential neighborhood. However, apartment-hotels that were legally established prior to the effective date of this Ordinance may have an impact on neighbors’ quality of life, as long as they remain. Presently there are four parcels with operating apartment-hotels, and three parcels with apartment-hotels under construction.

The attached amendment to the Land Development Regulations (LDR’s) of the City Code proposes to amend Section 142-694 to create incentive provisions for the conversion of existing apartment hotels located in the R-PS1 or R-PS2 district, which are legal non-conforming, to a conforming residential use.

The companion Comprehensive Plan amendment proposes to remove apartment-hotels from the list of permitted uses, to be consistent with the previously adopted LDR amendment, and mirrors the incentives proposed for LDR’s. Since the Comprehensive Plan also includes limits on density, the amendment proposes a slight density increase that would facilitate the use of the incentives.

Specifically, the following would apply to residential uses that replace existing apartment hotel uses:

R-PS1 District:

- The maximum floor area ratio (FAR) shall not exceed 1.50. Currently the maximum FAR is 1.25. This represents an increase in FAR of .25.
- The maximum building height shall be 55 feet, except for lots 50 feet wide or less, in which case the maximum building height shall be 50 feet. The current maximum building height is 45 feet; for lots 50 feet wide or less the maximum height is 40 feet. This represents an increase in overall building height of 10 feet.
- Pursuant to the Comprehensive Plan, the maximum density shall not exceed 80 dwelling

units per acre. Currently the maximum density is 57 dwelling units per acre.

R-PS2 District:

- The maximum floor area ratio (FAR) shall not exceed 1.75. Currently the maximum FAR is 1.50. This represents an increase in FAR of .25.
- The maximum building height shall be 65 feet, except for lots 50 feet wide or less, in which case the maximum building height shall be 60 feet. The current maximum building height is 45 feet; for lots 50 feet wide or less the maximum height is 40 feet. This represents an increase in overall building height of 20 feet.
- Pursuant to the Comprehensive Plan, the maximum density shall not exceed 95 dwelling units per acre. Currently the maximum density is 70 dwelling units per acre.

The above noted FAR, density and building height increases would only apply to those properties that have a legally established apartment hotel as the main permitted use, and which convert the entire property to a conforming residential use. Additionally, the property owner(s) must agree, via recorded covenant, not to engage in short term rentals of any apartment units. In order to expedite the transition from apartment-hotel to residential apartment, these incentive provisions will only apply to projects that have obtained a full building permit or certificate of use by December 31, 2025, and there shall be no variances from any of the incentive provisions.

The proposed increase in building height in the R-PS1 and R-PS2 districts is commensurate with the proposed increase in maximum FAR. Although this additional height will be slightly taller than what is currently permitted, it will only be applicable to a limited number of properties.

Modest and context sensitive increases in allowable FAR, density and building height for residential apartment uses in the R-PS1 and R-PS2 districts would likely not have a negative impact, as the applicable area is limited. Additionally, the maximum FAR, density and height permitted in these districts is already relatively modest. Since most of the apartment hotel uses are in smaller, older buildings, a small increase in allowable FAR and/or building height may incentivize a re-conversion back to residential only use.

IMPACT ANALYSIS

The proposed Comprehensive Plan and LDR amendments would affect the following parcels that have legally non-conforming apartment-hotels in the R-PS1 and R-PS2 zoning districts:

Affected Parcels				
#	Addresses	Zoning	Lot Size (SF)	Lot Size (AC)
1	226 Jefferson Avenue	R-PS1	7,000	0.16
2	333 & 343 Jefferson Avenue	R-PS2	14,000	0.32
3	310 Meridian Avenue	R-PS2	7,000	0.16
4	727 & 735 2nd Street	R-PS2	1,827	0.04
5	350 Euclid Avenue	R-PS2	7,000	0.16
6	334, 338, & 344 Euclid Avenue	R-PS2	14,000	0.32
7	350 Washington Avenue	R-PS2	4,725	0.11
	Total		55,552	1.28

Given today's FAR and density limits, the affected parcels have the following impacts if the legally non-conforming apartment-hotels are maintained:

Current Limits							
#	Addresses	Existing FAR	Current Max Floor Area (SF)	Current Max Density (Dwelling Units/AC)	Current Max Units (Dwelling Units)	Trip Generation Peak Hour Rate (All Suites Hotel)	Current Potential Peak Hour Trips
1	226 Jefferson Avenue	1.25	8,750	57	9	0.55	5
2	333 & 343 Jefferson Avenue	1.50	21,000	70	22	0.55	12
3	310 Meridian Avenue	1.50	10,500	70	11	0.55	6
4	727 & 735 2nd Street	1.50	2,741	70	3	0.55	2
5	350 Euclid Avenue	1.50	10,500	70	11	0.55	6
6	334, 338, & 344 Euclid Avenue	1.50	21,000	70	22	0.55	12
7	350 Washington Avenue	1.50	7,088	70	8	0.55	4
Total			81,578		87		48

If the proposed amendments are ultimately adopted, and all the legally non-conforming apartment-hotel uses are converted to residential uses together with the incentives, the following impacts could be expected:

Proposed Limits							
#	Addresses	Proposed FAR	Proposed Max Floor Area (SF)	Proposed Max Density (Dwelling Units/AC)	Proposed Max Units (Dwelling Units)	Trip Generation Peak Hour Rate (Apartment)	Proposed Potential Peak Hour Trips
1	226 Jefferson Avenue	1.50	10,500	80	13	0.62	8
2	333 & 343 Jefferson Avenue	1.75	24,500	95	31	0.62	19
3	310 Meridian Avenue	1.75	12,250	95	15	0.62	9
4	727 & 735 2nd Street	1.75	3,197	95	4	0.62	2
5	350 Euclid Avenue	1.75	12,250	95	15	0.62	9
6	334, 338, & 344 Euclid Avenue	1.75	24,500	95	31	0.62	19
7	350 Washington Avenue	1.75	8,269	95	10	0.62	6
Total			95,466		119		74

If all the properties were to take advantage of the proposed incentives, the following increased impacts could take place:

Potential Impacts	
Potential Floor Area Increase (SF)	13,888
Potential Units Increase (Units)	32
Potential Peak Hour Traffic Increase (Trips)	26

Pursuant to this analysis, the proposed FAR and density increases could result in an additional 32 units beyond what is permitted today. This could result in an additional 26 peak hour vehicle trips taking place, assuming no trip reductions are provided for public transportation and alternative modes of transportation, which are common for this neighborhood. Given the limited scope of these amendments, the potential impacts are de minimis.

CITY CHARTER ANALYSIS

The proposal to increase FAR for the RPS-1 and RPS-2 districts to incentive the conversion of existing apartment-hotels is affected by Section 1.03(c) of the City Charter, which partially states the following:

The floor area ratio of any property or street end within the City of Miami Beach shall not be increased by zoning, transfer, or any other means from its current zone floor area ratio as it exists on the date of adoption of this Charter Amendment (November 7, 2001), including any limitations on floor area ratios which are in effect by virtue of development agreements through the full term of such agreements, unless such increase in zone floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach.

Therefore, the proposal would require voter approval. As such, should this Ordinance move forward, only approval of the Ordinance at First Reading may take place, prior to the election. If the item is approved by a majority of City of Miami Beach voters, Second Reading / Adoption of the Ordinance would be scheduled for the next available City Commission meeting after the election.

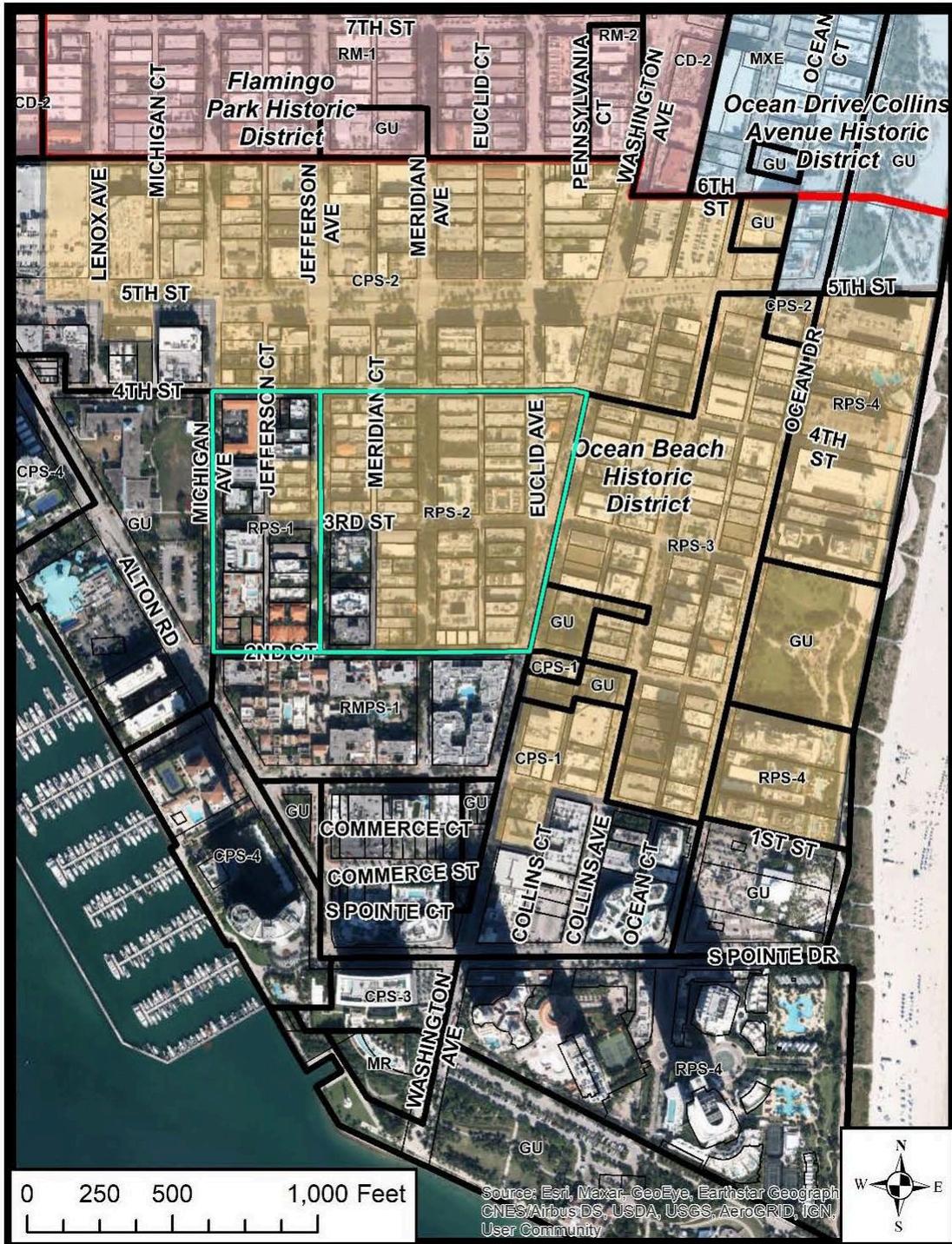
COMPREHENSIVE PLANNING REVIEW PROCESS

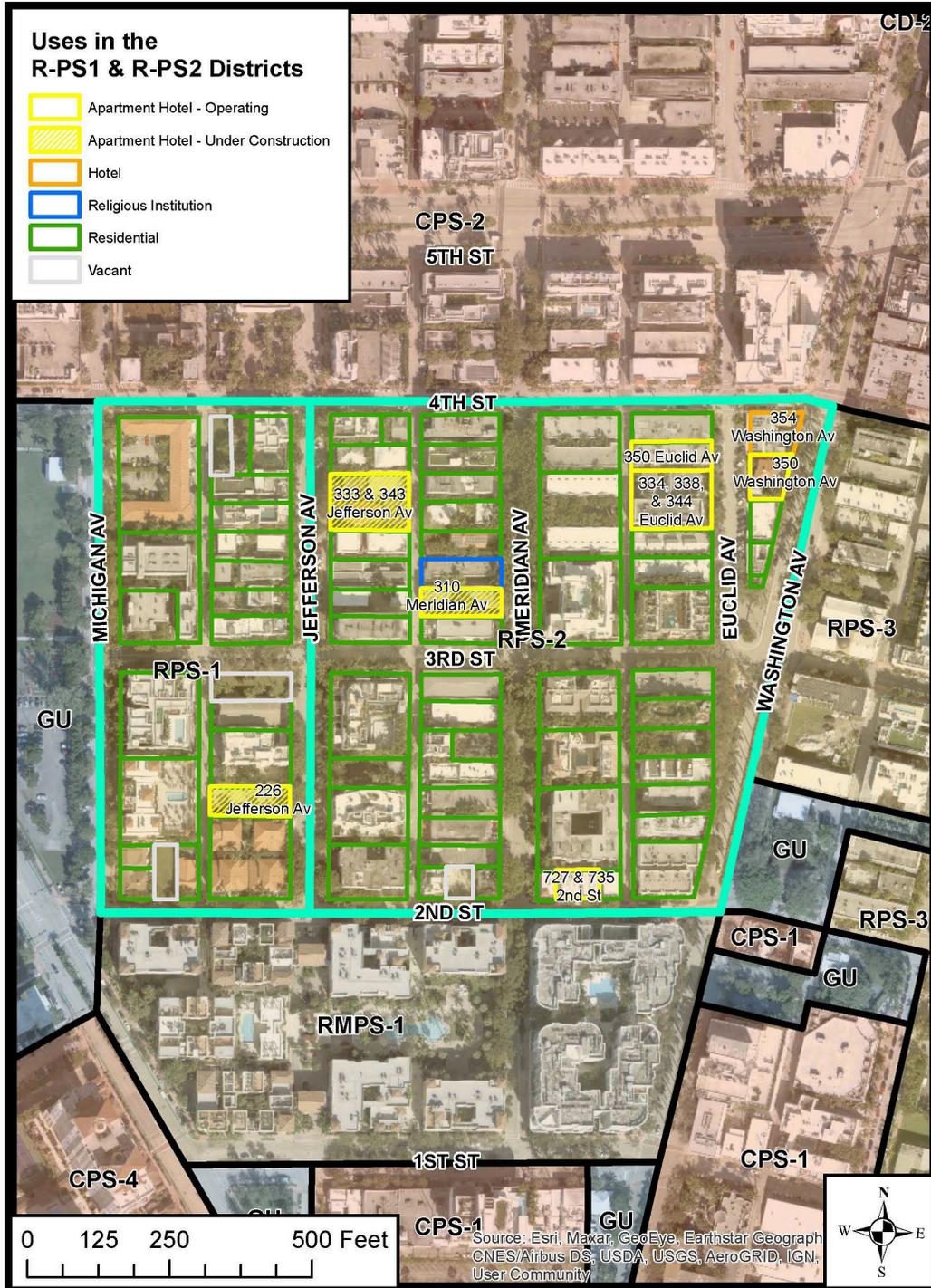
This referral includes a text amendment to the Comprehensive Plan. Under Section 163.3184(2), Florida Statutes, this amendment shall follow the expedited state review process for adoption of comprehensive plan amendments. This process requires a public hearing by the local planning agency (Planning Board), a public transmittal hearing before the City Commission, after which the amendment must be transmitted to several state agencies for a 30-day review period, and a final adoption public hearing before the City Commission. The amendment is effective 31-days after it is adopted if there are no appeals.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the Comprehensive Plan and Land Development Regulations amendments to the City Commission with a favorable recommendation.

R-PS1 and R-PS2 Districts within Ocean Beach Historic District Boundaries





Source: Esri, Maxar, GeoEye, Earthstar, Geograph
 CNES/Airbus DS, USDA, USGS, AeroGRID, IGN,
 User Community

PB22-0511
RPS-1 and R-PS2 Apartment-Hotel
Conversion Incentives
Proposed Comprehensive Plan Amendment

**R-PS1 and R-PS2 Apartment-Hotel Conversion Incentives
Comprehensive Plan Amendment**

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY OF MIAMI BEACH 2040 COMPREHENSIVE PLAN RESILIENT LAND USE ELEMENT AT (1) TABLE RLU 1.1 TO PROVIDE THAT THE DENSITY AND INTENSITY LIMITS OF THE R-PS-1 AND R-PS-2 LAND USE CATEGORIES SHALL REFER TO POLICY LIMITS OF EACH RESPECTIVE CATEGORY; AT (2) POLICY RLU 1.2.22, ENTITLED “MEDIUM-LOW DENSITY RESIDENTIAL PERFORMANCE STANDARD (R-PS-1)” TO MODIFY DENSITY AND FLOOR AREA RATIO LIMITS OF THE R-PS-1 LAND USE CATEGORY TO INCENTIVIZE THE CONVERSION OF LEGALLY NONCONFORMING APARTMENT-HOTEL USES TO CONFORMING RESIDENTIAL USES; AND AT (3) POLICY RLU 1.2.23, ENTITLED “MEDIUM DENSITY RESIDENTIAL PERFORMANCE STANDARD (R-PS-2)” TO MODIFY DENSITY AND FLOOR AREA RATIO LIMITS OF THE R-PS-2 LAND USE CATEGORY TO INCENTIVIZE THE CONVERSION OF LEGALLY NONCONFORMING APARTMENT-HOTEL USES TO CONFORMING RESIDENTIAL USES; PURSUANT TO THE EXPEDITED STATE REVIEW PROCESS IN SECTION 163.3184 (3), FLORIDA STATUTES; PROVIDING FOR INCLUSION IN THE COMPREHENSIVE PLAN, TRANSMITTAL, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

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

WHEREAS, the current R-PS1 and R-PS2 land development regulations prohibit apartment hotel uses; and

WHEREAS, Comprehensive Plan Objective RLU 1.4, entitled “Inconsistent Uses,” provides that “The City Land Development Regulations shall continue to provide for the discontinuation of nonconforming land and building uses which are incompatible or inconsistent with the Future Land Use Plan,” and

WHEREAS, the City seeks to encourage and incentivize existing apart hotel uses in the R-PS1 and R-PS2 districts to convert to a legal conforming use of residential apartment; and

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

WHEREAS, pursuant to Chapter 163, Part II, Florida Statutes, the City of Miami Beach Commission has an adopted Comprehensive Plan; and

WHEREAS, the City Commission has provided procedures, codified as Chapter 118, Article III, of the City's Land Development Regulations, to amend, modify, add to, or change the Comprehensive Plan; and

WHEREAS, City's procedures reflect and comply with the procedures for adopting or amending local comprehensive plans as set forth in Chapter 163, Part II, Florida Statutes,

including the process for adoption comprehensive plan amendments set forth in section 163.3184, Florida Statutes; and

WHEREAS, the City of Miami Beach Planning Board, which serves as local planning agency, transmitted the text amendment to the City Commission with a favorable recommendation; and

WHEREAS, the City Commission held a duly noticed public hearing, at which time it voted to transmit the text amendment for review by state, regional, and local agencies, as required by law; and

WHEREAS, the City Commission hereby finds that the adoption of this text amendment is in the best interest and welfare of the residents of the City.

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

SECTION 1. The 2040 Comprehensive Plan “Resilient Land Use Element” at Table RLU 1.1 is hereby amended as follows:

RESILIENT LAND USE AND DEVELOPMENT ELEMENT

* * *

Table RLU 1.1

The following table is a reference guide that depicts the policy number, and maximum densities and intensities for each future land use map (FLUM) category.

(* = Refer to policy for limits)

	FLUM Category	Density Limits (Units Per Acre)	Intensity Limits (Floor Area Ratio)	Reference (Policy #)
Residential	Single Family Residential (RS)	7 units per acre	*	RLU 1.1.1
	Townhouse Residential (TH)	30 units per acre	0.7	RLU 1.1.2
	Fisher Island Low Density Planned Residential (RM-PRD)	25 units per acre	1.6	RLU 1.1.3
	Allison Island Low Density Planned Residential Category (RM-PRD-2)	25 units per acre	1.45	RLU 1.1.4
	Low Density Multi Family Residential (RM-1)	60 units per acre	1.25*	RLU 1.1.5
	Medium Density Multi Family Residential (RM-2)	100 units per acre	2.0	RLU 1.1.6
	High Density Multi Family Residential (RM-3)	150 units per acre	2.25*	RLU 1.1.7
	Medium-Low Density Residential Performance Standard (R-PS-1)	57 units per acre*	1.25*	RLU 1.1.22

	FLUM Category	Density Limits (Units Per Acre)	Intensity Limits (Floor Area Ratio)	Reference (Policy #)
	Medium Density Residential Performance Standard (R-PS-2)	70 units per acre*	1.5*	RLU 1.1.23
	Medium-High Density Residential Performance Standard (R-PS-3)	85 units per acre	1.75	RLU 1.1.24

SECTION 2. The 2040 Comprehensive Plan “Resilient Land Use Element” at Policy RLU 1.1.22, entitled “Policy RLU 1.1.22 Medium-Low Density Residential Performance Standard (R-PS-1)” is hereby amended as follows:

POLICY RLU 1.1.22 MEDIUM-LOW DENSITY RESIDENTIAL PERFORMANCE STANDARD (R-PS-1)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different residential types developed in accordance with flexible design standards.

Uses which may be permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, apartments, ~~apartment hotels~~ and institutional uses.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 57 dwelling units per acre- except for the following:

- Properties with a legally established non-conforming apartment hotel uses that are converted to conforming residential uses shall have a density limit of 80 dwelling units per acre.

Intensity Floor Area Ratio Limits: Intensity may be limited by such set back, height, floor area ratio and/or other restrictions as the City Commission acting in a legislative capacity determines can effectuate the purpose of this land use category and otherwise implement complementary public policy. However, in no case shall the intensity exceed a floor area ratio of 1.25- except for the following:

- Properties with a legally established non-conforming apartment hotel uses that are converted to conforming residential uses shall not exceed a floor are ratio of 1.5.

SECTION 3. The 2040 Comprehensive Plan “Resilient Land Use Element” at Policy RLU 1.1.22, entitled “Policy RLU 1.1.23 Medium Density Residential Performance Standard (R-PS-2)” is hereby amended as follows:

POLICY RLU 1.1.23 MEDIUM DENSITY RESIDENTIAL PERFORMANCE STANDARD (R-PS-2)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new residential areas which accommodate a mix of different residential types developed in accordance with flexible design standards.

Uses which may be permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, apartments, ~~apartment hotels~~ and institutional uses.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 70 dwelling units per acre.

- Properties with a legally established non-conforming apartment hotel use that are converted to conforming residential uses shall have a density limit of 95 dwelling units per acre.

Intensity Floor Area Ratio Limits: Intensity may be limited by such set back, height, floor area ratio and/or other restrictions as the City Commission acting in a legislative capacity determines can effectuate the purpose of this land use category and otherwise implement complementary public policy. However, in no case shall the intensity exceed a floor area ratio of 1.50, except for the following:

- Properties with a legally established non-conforming apartment hotel use that are converted to conforming residential uses shall not exceed a floor are ratio of 1.75.

SECTION 4. REPEALER.

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

SECTION 5. 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 re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 6. SEVERABILITY.

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

SECTION 7. TRANSMITTAL.

The Planning Director is hereby directed to transmit this ordinance to the appropriate state, regional and county agencies as required by applicable law.

SECTION 8. EFFECTIVE DATE.

This Ordinance shall take effect 31 days after the state land planning agency notifies the City that the plan amendment package is complete pursuant to Section 163.3184(3), Florida Statutes.

PASSED and **ADOPTED** this _____ day of _____, 2022.

Dan Gelber
Mayor

ATTEST:

Rafael E. Granado
City Clerk

APPROVED AS TO FORM
AND LANGUAGE
AND FOR EXECUTION

City Attorney Date

First Reading: _____, 2022
Second Reading: _____, 2022

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

PB22-0500

RPS-1 and R-PS2 Apartment-Hotel
Conversion Incentives
Proposed LDR Amendment

R-PS1 and R-PS2 Apartment-Hotel Conversion Incentives

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 142-694, ENTITLED "NONCONFORMING USES AND STRUCTURES," ESTABLISHING FAR AND BUILDING HEIGHT INCENTIVES FOR THE CONVERSION OF EXISTING APARTMENT HOTEL USES TO RESIDENTIAL APARTMENT USE; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

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

WHEREAS, the current R-PS1 and R-PS2 regulations prohibit apartment hotel uses; and

WHEREAS, the City seeks to encourage and incentivize existing apart hotel uses in the R-PS1 and R-PS2 districts to convert to a legal conforming use of residential apartment; 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:

Sec. 142-694. - Nonconforming uses, lots and structures.

(a) Nonconforming uses, lots and structures shall be subject to the regulations contained in chapter 118, article IX.

(b) In the event that the owner of a property with a legally established apartment hotel use located in the R-PS1 or R-PS2 district, which is legal non-conforming, seeks to convert the apartment hotel use to a conforming residential use, the following may apply, notwithstanding any of the provisions setforth in Sec. 142-696:

(1) For those properties located in the R-PS1 district the maximum floor area ratio (FAR) shall not exceed 1.50 and the maximum building height shall be 55 feet, except for lots 50 feet wide or less, in which case the maximum building height shall be 50 feet.

(2) For those properties located in the R-PS2 district the maximum floor area ratio (FAR) shall not exceed 1.75 and the maximum building height shall be 65 feet, except for lots 50 feet wide or less, in which case the maximum building height shall be 60 feet.

- (3) The above noted FAR and building height limits shall only apply to those properties that have a legally established apartment hotel as the main permitted use, and which convert the entire property to a conforming residential use. Additionally, the property owner(s) shall agree, via recorded covenant, not to engage in short term rentals of any apartment units.
- (4) The above noted FAR and building height limits shall not apply to a transient use of any kind including, but not limited to, hotel, suite hotel, apartment-hotel or the short term rental of apartment units.
- (5) The above noted provisions pertaining to FAR and building height shall only apply to projects that have obtained a full building permit or certificate of use for the conversion to a conforming residential use by December 31, 2025.
- (6) There shall be no variances from any of the above noted provisions.

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 6. EFFECTIVE DATE.

This Ordinance shall take effect on the _____ day of _____ 2022.

PASSED and ADOPTED this _____ day of _____, 2022.

 Dan Gelber
 Mayor

ATTEST:

 Rafael E. Granado
 City Clerk

APPROVED AS TO FORM
 AND LANGUAGE
 AND FOR EXECUTION

 City Attorney Date

First Reading: May 4, 2022
Second Reading: _____, 2022

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

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