

# MIAMI BEACH

## PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members  
Planning Board

DATE: May 24, 2022

FROM: Thomas R. Mooney, AICP   
Planning Director

SUBJECT: **PB22-0517 – R-PS4 – FAR Incentive for Converting Transient Uses to Non-Transient Uses – Comprehensive Plan Amendment.**

**PB22-0512 – ORD – R-PS4 – FAR Incentive for Converting Transient Uses to Non-Transient Uses – LDR Amendment.**

### **RECOMMENDATION**

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

### **HISTORY**

On April 6, 2022, at the request of Commissioner Mark Samuelian, the City Commission referred the attached ordinance amendment to the Land Use and Sustainability Committee and the Planning Board for review and recommendation (Item C4 W). The Land Use and Sustainability Committee (LUSC) is expected to discuss this item at the May 13, 2022 meeting. Staff will update the board as to the LUSC's recommendations.

### **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.

- 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 does not affect the scale of development, as it simply allows existing FAR to remain in the case of a redevelopment and is not out of scale with the needs of the neighborhood or the city.

**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 it does not increase the intensity of existing development.

**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 not adversely affect living conditions in the 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 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. The ordinance simply allows existing non-conforming FAR to remain in the case of a redevelopment.

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

**Consistent** – The proposed will not reduce light and air to adjacent areas beyond what is currently existing.

**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.**

**Partially Consistent** – The proposal will improve the resiliency of the City with respect to sea level rise by encouraging a property to be redeveloped. The redevelopment will be required to comply with new regulations that improve the resiliency of new buildings.

- (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 purpose of the attached legislation is to incentivize the redevelopment of hotels within the RPS-4 zoning district, such as the Marriott Stanton, into residential properties. The replacement of a hotel with residential uses would reduce the impact of transient hotel guests in the South of Fifth community.

The proposed amendment to the Land Development Regulations and the Comprehensive Plan would allow properties in the RPS-4 district to maintain existing non-conforming Floor Area Ratio ("FAR") if it is redeveloped as a residential property, even if the value of the redevelopment exceeds the 50% rule. The main use of the building would be 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 Map at the end of this report).

The Marriott Stanton contains approximately 204,504 square feet of floor area on a 68,056 square foot lot; this represents an FAR of approximately 3.0. If a new building were to be redeveloped under existing regulations, it would have an FAR limitation of 2.0, resulting in 136,112 square feet of floor area. Significantly redeveloping the site would result in a loss of 68,392 square feet of floor area under current regulations.

Further, the proposed legislation would effectively reduce density as the conversion of an existing hotel to a residential apartment would require compliance with the underlying residential density limits in the Code. The City code does not regulate the amount of hotel rooms that may be provided within a hotel structure. However, section 142-696 (h) of the LDR's does limit the residential density within R-PS4 zoning district within the Ocean Beach Historic District to 60 units per acre. A residential building that replaces an existing hotel in the RPS4 district would therefore be subject to this density limitation.

In the case of the Marriott Stanton, the redevelopment of the site would transform the 226-room hotel to a residential structure of no more than 93 units. This equates to a 58% decrease in the number of units provided on that site. Additionally, the proposed Ordinance requires that the property owner or condominium association voluntarily proffers to record a restrictive covenant prohibiting short-term rentals on the property in perpetuity.

### **CITY CHARTER ANALYSIS**

The proposal to allow legally non-conforming FAR to remain, as new construction, 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.*

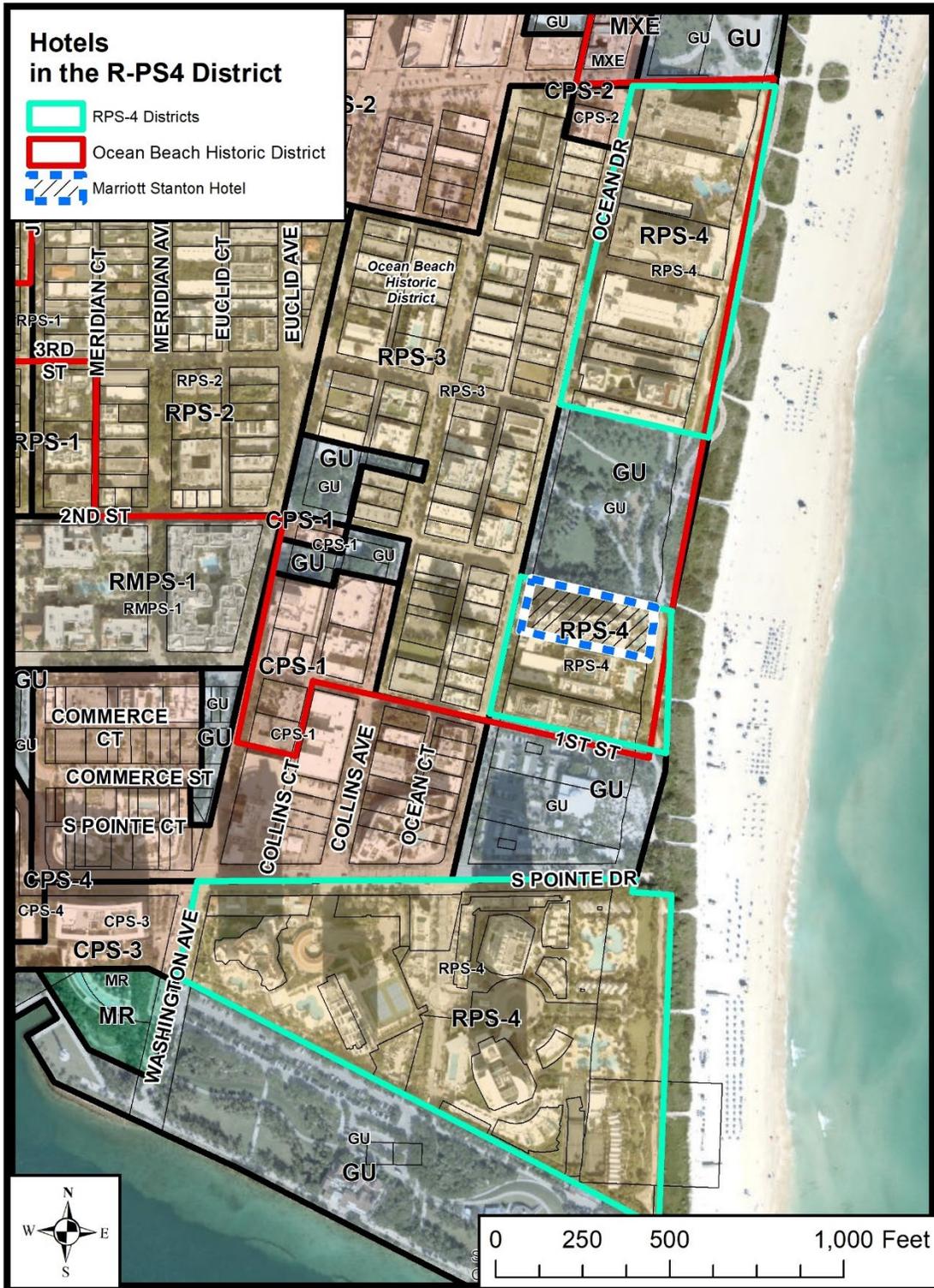
As the proposed Ordinance requires voter approval, only approval at First Reading may take place, prior to a citywide election. If the subject Ordinance moves forward, it is anticipated that First Reading would occur on June 21, 2022, and a ballot question would need to be approved by the City Commission no later than July 20, 2022. If the proposed FAR increase is approved by a majority of City of Miami Beach voters in the November election, 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 subject Ordinances, pertaining to the Comprehensive Plan and Land Development Regulations amendments, to the City Commission with a favorable recommendation.



**PB22-0517**  
**Comprehensive Plan Amendment**

**R-PS4 FAR Amendment for Hotel Conversion to Residential - 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 YEAR 2040 COMPREHENSIVE PLAN, PURSUANT TO THE EXPEDITED STATE REVIEW PROCESS OF SECTION 163.3184(3), FLORIDA STATUTES, BY AMENDING THE “RESILIENT LAND USE & DEVELOPMENT ELEMENT;” GOAL RLU 1 ENTITLED “LAND USE;” OBJECTIVE RLU 1.1, ENTITLED “ESTABLISHMENT OF FUTURE LAND USE CATEGORIES;” TABLE RLU 1.1 AND POLICY 1.1.25 ENTITLED “HIGH DENSITY RESIDENTIAL PERFORMANCE STANDARD (R-PS-4)”, BY AMENDING THE MAXIMUM ALLOWABLE FLOOR AREA RATIO (“FAR”) FOR THE R-PS-4 LAND USE CATEGORY TO INCENTIVIZE THE REDEVELOPMENT OF HOTELS INTO RESIDENTIAL STRUCTURES BY ALLOWING SUCH PROPERTIES TO RETAIN THEIR NONCONFORMING FAR IF NO SHORT-TERM RENTALS ARE PROVIDED; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, TRANSMITTAL AND AN EFFECTIVE DATE.**

**WHEREAS**, the City’s South of Fifth residential community is partly within the High Density Residential Performance Standard High Density (R-PS-4) land use category; 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**, to incentivize the construction of residential condominiums to replace existing hotels within the South of Fifth Neighborhood, it is necessary to amend the City’s Comprehensive Plan to allow existing hotel properties in the R-PS-4 land use category to retain their existing floor area for any residential conversion or redevelopment if no short-term rentals are provided; and

**WHEREAS**, Section 1.03(c) of the City Charter requires voter approval of certain “increases” to current zoned FAR; and

**WHEREAS**, on \_\_\_\_\_, 2022, and pursuant to Resolution No. 2022-\_\_\_\_\_, a majority of the City’s voters approved the proposed FAR increase; and

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

**WHEREAS**, the City seeks to amend the Comprehensive Plan to implement the vote of the residents relating to FAR in the City’s R-PS-4 land use category; and

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

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

**SECTION 1.** The following amendments to the City’s 2040 Comprehensive Plan Resilient Land Use & Development Element are hereby adopted:

**RESILIENT LAND USE & DEVELOPMENT ELEMENT**

\* \* \*

**GOAL RLU 1: LAND USE**

\* \* \*

**OBJECTIVE RLU 1.1 ESTABLISHMENT OF FUTURE LAND USE CATEGORIES**

\* \* \*

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 #)
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
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
High Density Residential Performance Standard (R-PS-4)	102 units per acre	2.0*	RLU 1.1.25
Low Intensity Commercial (CD-1)	60 units per acre	1.0*	RLU 1.1.8
Medium Intensity Commercial (CD-2)	100 units per acre	1.5*	RLU 1.1.9
High Intensity Commercial (CD-3)	150 units per acre	2.0*	RLU 1.1.10
Urban Light Industrial (I-1)	N/A	1.0	RLU 1.1.21

\*

\*

\*

## **POLICY RLU 1.1.25 HIGH DENSITY RESIDENTIAL PERFORMANCE STANDARD (R-PS-4)**

*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, 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:* 102 dwelling units per acre.

*Intensity Floor Area Ratio Limits:* 2.0

Notwithstanding the foregoing Intensity Floor Area Ratio limitations, for properties with a main use of hotel as of January 1, 2022, which exceeds an FAR of 2.0 and is located in the R-PS-4 land use category, legal nonconforming intensity floor area ratio may be retained and/or reconstructed if the main use on the property is proposed to be converted to residential, in accordance with the applicable requirements set forth in the Land Development Regulations of the City Code.

### **SECTION 2. CODIFICATION.**

It is the intention of the City Commission that this Ordinance be entered into the Comprehensive Plan of the City of Miami Beach, FL, and it is hereby ordained that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and that 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. 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 6. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

**PASSED** and **ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Dan Gelber, Mayor

**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado  
City Clerk

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

First Reading: June 22, 2022  
Second Reading: December \_\_\_\_, 2022

Verified By: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director

**PB22-0512**  
**LDR Amendment**

**R-PS4 FAR Amendment for Hotel Conversion to Residential - LDR Amendment**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS" ARTICLE II, "DISTRICT REGULATIONS" DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT," AMENDING SECTION 142-696 "RESIDENTIAL PERFORMANCE STANDARD AREA REQUIREMENTS," BY AMENDING THE MAXIMUM ALLOWABLE FLOOR AREA RATIO ("FAR") FOR THE R-PS4 ZONING DISTRICT TO INCENTIVIZE THE REDEVELOPMENT OF HOTELS INTO RESIDENTIAL STRUCTURES BY ALLOWING SUCH PROPERTIES TO RETAIN THEIR NONCONFORMING FAR IF NO SHORT-TERM RENTALS ARE PROVIDED; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the City's South of Fifth residential community is partly within the High Density Residential Performance Standard High Density (R-PS4) zoning district; 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**, to incentivize the construction of residential condominiums to replace existing hotels within the South of Fifth Neighborhood, it is necessary to amend the City's land development regulations to allow existing hotel properties in the R-PS4 zoning district to retain their existing floor area for any residential conversion or redevelopment if no short-term rentals are provided; and

**WHEREAS**, Section 1.03(c) of the City Charter requires voter approval of certain "increases" to current zoned FAR; and

**WHEREAS**, on \_\_\_\_\_, 2022, and pursuant to Resolution No. 2022-\_\_\_\_\_, a majority of the City's voters approved the proposed FAR increase; and

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

**WHEREAS**, the City seeks to amend its land development regulations to implement the vote of the residents relating to FAR in the City's R-PS4 zoning district; and

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

**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," Article II, "District Regulations," Division 18, "Performance Standard District," of the Land Development Regulations of the Code of the City of Miami Beach is hereby amended as follows:

**Sec. 142-696. - Residential performance standard area requirements.**

a. The residential performance standard area requirements are as follows:

**Residential Subdistricts**

<i>Performance Standard</i>	<i>R-PS1</i>	<i>R-PS2</i>	<i>R-PS3</i>	<i>R-PS4</i>
Minimum lot area	5,750 square feet	5,750 square feet	5,750 square feet	5,750 square feet
Minimum lot width	50 feet	50 feet	50 feet	50 feet
Required open space ratio	0.60, See section 142-704	0.65, See section 142-704	0.70, See section 142-704	0.70, See section 142-704
Maximum building height*	45 feet Lots 50 feet wide or less—40 feet	45 feet Lots 50 feet wide or less—40 feet	50 feet Lots 50 feet wide or less—40 feet	Nonoceanfront—80 feet; Oceanfront—100 feet; Lots 50 feet wide or less—40 feet <u>(Except as provided below)</u>
Maximum floor area ratio**	1.25	1.50	1.75	2.0 <u>(Except as provided below)</u>
Minimum floor area per apartment unit (square feet)	New construction—700 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—650 Rehabilitated buildings—400	New construction—600 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400	New construction—550 Rehabilitated buildings—400 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400
Minimum average floor area per apartment unit (square feet)	New construction—900 Rehabilitated buildings—550 Non-elderly and elderly low and	New construction—900 Rehabilitated buildings—550 Non-elderly and elderly low and	New construction—850 Rehabilitated buildings—550 Non-elderly and elderly low and	New construction—800 Rehabilitated buildings—550 Non-elderly and elderly low and

<i>Performance Standard</i>	<i>R-PS1</i>	<i>R-PS2</i>	<i>R-PS3</i>	<i>R-PS4</i>
	moderate income housing—400 Workforce housing—400	moderate housing—400 Workforce housing 400	moderate income housing—400 Workforce housing—400	moderate income housing—400 Workforce housing—400
Minimum floor area per hotel unit (square feet)	N/A	N/A	15% = 300—335 square feet 85% = 335+ square feet	15% = 300—335 square feet 85% = 335+ square feet
Minimum parking	Pursuant to chapter 130 and section 142-705 requirement.			
Minimum off-street loading	Pursuant to chapter 130, article III.			
Signs	Pursuant to chapter 138.			
Suites hotel	Pursuant to article IV, division 3 of this chapter.			

b. Notwithstanding the foregoing provisions regarding maximum building height, in the Ocean Beach historic district, as defined in subsection 118-593(e)(2)f., the maximum building height for a lot located in the R-PS1, R-PS2, or R-PS3 zoning districts:

- (i) With a lot exceeding 50 feet, and
  - (ii) Upon which there exists a contributing structure which has not received a certificate of appropriateness for demolition (or any such approval has expired), shall be 40 feet.
1. Notwithstanding the above height restrictions, existing structures within a local historic district are subject to section 142-1161.
  2. In the R-PS4 zoning district, within the Ocean Beach historic district, when an existing contributing structure is nonconforming with respect to the height regulations in section 142-696, such structure may be repaired, renovated or rehabilitated regardless of the cost of such repair, renovation or rehabilitation, notwithstanding the provisions of chapter 118, article IX, "Nonconformances."
  3. Reserved.
  4. Notwithstanding the above height restrictions, in the R-PS4 zoning district, within the Ocean Beach historic district, for lots 100 feet or more in width, the maximum height shall be 35 feet for the first 60 feet of lot depth, 75 feet thereafter, subject to the line-of-sight analysis of section 142-697(d). However, for residential apartment buildings, on lots 100 feet or more in width, the historic preservation board, in accordance with certificate of appropriateness criteria, may allow an increase in the overall height not to exceed 60 feet for the first 60 feet of lot depth, and 100 feet thereafter, and on lots 50 feet wide or less may allow an increase in overall height not to exceed 35 feet for

the first 60 feet of lot depth, 60 feet thereafter, provided all of the following conditions are satisfied:

- a. The property shall be an oceanfront lot;
- b. The property shall not contain a contributing building;
- c. The top level of the front portion of the new construction on lots 100 feet or more in width shall meet a line-of-sight, which for the purpose of this section, is defined as not being visible when viewed at eye-level (five feet six inches from grade) from the opposite side of the Ocean Drive right-of-way, and on lots 50 feet or less wide shall be subject to the line-of-sight analysis of section 142-697(d);
- d. The proposed building shall be sited and massed in a manner that promotes and protects view corridors. At a minimum, a substantial separation of the tower portion of any structure shall be required;
- e. For lots greater than 50 feet in width, the front portion of the structure shall incorporate a separation in the center of the structure, which is open to sky, and is at least ten feet in width and 25 feet in depth; the exact location of such separation shall be subject to the historic preservation board, in accordance with certificate of appropriateness criteria. Alternatively, the massing and architectural design of the front portion of the structure shall acknowledge the historic pattern of residential structures along Ocean Drive;
- g. [Reserved;]
- h. The maximum residential density is 60 units per acre;
- i. All required off-street parking for the building shall be provided on site; required parking may not be satisfied through parking impact fees;
- j. The owner restricts the property to permit only rentals that are no less than six months and one day per calendar year, through language in its condominium or cooperative documents, and by proffering a restrictive covenant, running with the land, or other similar instrument enforceable against the owner(s), acceptable to and approved as to form by the city attorney, which shall be executed and recorded prior to the issuance of a building permit, to ensure that the building remains solely as a residential apartment building for a minimum of 30 years, and that no uses under section 142-902(2)e. are permitted on the premises during that time period;
- k. Accepting that the value in the increased height, and the incremental traffic burden and effect on aesthetics in the district are offset by the conveyance of an easement for an extension of the beachwalk east of their structures, the owner provides an easement, acceptable to and approved as to form by the city attorney, for a public beachwalk on the easterly portion of its property, as more specifically provided in the plans on file with the city's public works department.

c. Notwithstanding the foregoing FAR limitations, for properties with a main use of hotel as of January 1, 2022, which exceeds an FAR of 2.0 and is located in the R-PS4 district, the legal nonconforming floor area may be retained and/or reconstructed if the main use on the property is proposed to be converted to residential, in accordance with the following:

- 1) The main use on the property shall be converted to residential and remain residential in perpetuity; hotel, apartment-hotel, suite hotel, short term rentals, or any other form of transient 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, and not to exceed the current legal non-conforming FAR on the site. Alternatively, notwithstanding the requirements set forth in Chapter 118, Article IX, pertaining to non-conformances, the entire existing building may be converted to main use residential and allowable accessory uses, including any repairs, alterations and modification that may exceed the 50% rule, provided any alterations and modifications do not result in the building exceeding the current legal non-conforming FAR.
- 3) The property owner or condominium association, as applicable, voluntarily proffers to record a restrictive covenant running with the land, in a form approved by the City Attorney, prohibiting short-term rentals on the property in perpetuity.
- 4) There shall be no variances from this provision.

**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 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 \_\_\_\_\_, 2022.

\_\_\_\_\_  
Dan Gelber, Mayor

**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado  
City Clerk

APPROVED AS TO  
FORM AND LANGUAGE  
& FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

First Reading: June 22, 2022  
Second Reading: December \_\_\_\_, 2022

Verified By: \_\_\_\_\_  
Thomas R. Mooney, AICP  
Planning Director

M:\\$CMB\CCUPDATES\Land Use and Sustainability Committee\2022\5 May\R-PS4 FAR Amendment for Hotel Conversion to Residential - LDR - ORD May 13 2022 LUSC.docx