MIAMI BEACH
PLANNING DEPARTMENT

Staff Report & Recommendation — PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: January 30, 2024

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB23-0644. Residential Use Incentives – Comprehensive Plan Amendment.**

PB23-0637. Residential Use Incentives – Land Development Regulations.

RECOMMENDATION
Transmit the proposed Comprehensive Plan and Land Development Regulations (LDR) Ordinance amendments to the City Commission with a favorable recommendation.

HISTORY
On July 26, 2023, at the request of Commissioner Laura Dominguez, the City Commission referred a discussion item (Item C4 E), pertaining to incentives for residential development and the conversion of transient uses to long term residential uses, to the Land Use and Sustainability Committee (LUSC).

On September 27, 2023, the LUSC discussed the item and continued it to the October 11, 2023 LUSC meeting. On October 11, 2023, the LUSC recommended that the City Commission refer an ordinance amending the Land Development Regulations of the City Code (LDRs) to the Planning Board, based on the criteria discussed at the October 11, 2023 LUSC meeting.

On October 18, 2023, the City Commission referred the proposed ordinance to the Planning Board (Item C4 J).

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 LDR amendment 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 create isolated 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 allow for a modest increase in the scale of development; however, the height limit increases would only allow for an additional one to two stories depending on the district. The benefits to the neighborhood would outweigh the potential modest impacts of the additional height and intensity.

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

Partially Consistent – While the proposed amendment could result in development that increases the load on public facilities and infrastructure due to the proposed change in floor area ratio (FAR), given the limited area that is affected by the amendment, the impact should be de minimis. It is expected that the ordinance would result in a reduction in traffic as more people would be able to live and work in the City, as opposed to commuting from suburbs. Furthermore, as the amendment does not increase the allowable residential density, so the increase would likely result in larger residential units, additional amenities, and accessory uses that would not be possible today.

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 underlying district boundaries.

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

Consistent – The loss of permanent residents and the impacts of excessive tourism in the surrounding neighborhood makes passage of the proposed change necessary. The proposed change creates incentives to create housing for permanent residents and office space, in exchange for a voluntary prohibition of short-term rental and hotel uses.

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

Consistent – The proposed ordinance amendment should not adversely affect living conditions in the neighborhood as it is intended to incentivize redevelopment with uses that will not negatively impact the surrounding 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.

Partially Consistent – The proposed change could allow for development that generates additional traffic from what is currently permitted, as the FAR is being slightly increased. However, given that the City has seen a major increase in traffic due to workers commuting to job centers within the City from suburbs in single occupancy vehicles, the amendment has the potential to reduce traffic by allowing the workforce to live in close proximity to their place of employment, as well as utilize alternative modes of transportation.

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

Partially Consistent – The proposed change only allows for a modest increase in height of one or two stories in the affected areas. Therefore, the proposed change should not seriously reduce light and air to adjacent areas. Additionally, ordinance requires that any development using the incentives in an historic district or site obtain a certificate of appropriateness providing further safeguards.

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 the redevelopment of existing properties 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.

BACKGROUND

Transient uses, which include hotel, suite hotel, apartment hotel, hostel, and the short-term rental of apartment units, are generally permitted in most commercial zoning districts, as well as in the RM-2, RM-3, R-PS3 and R-PS4 districts. In the West Avenue and Palm View areas of the city, hotel uses are prohibited in the RM-2 and RM-3 districts, but the short-term rental of apartment units is allowed.

The LUSC discussed and considered potential zoning incentives for developing new residential apartment uses and converting existing transient uses to residential apartments, including the following:

1. An increase in maximum allowable floor area ratio (FAR).

2. An increase in maximum allowable building height.

3. Modifications to minimum parking requirements.

4. Expansion of allowable accessory uses in medium intensity residential districts.

On October 11, 2023, the LUSC recommended that an ordinance amending the LDRs be referred to the Planning Board, based on incentives for residential development in the following areas of the City:

1. The conversion of existing transient uses in the West Avenue overlay, which established a hotel prohibition in 2013.

2. The conversion to or development of residential (non-transient) uses on Collins Avenue from 47th Street to 63rd Street (RM-3 zoning), which consists primarily of residential uses. Additionally, the area up to 71st Street should be explored.

3. The conversion to or development of residential (non-transient) uses in the R-PS4 areas on Ocean Drive from First to Fifth Streets.

ANALYSIS

The City of Miami Beach has experienced a drop in permanent residential population over the last decade. The 2010 US Census indicated that the City had a population of 87,779 while the

2020 Census indicated that the City had a population of 82,890, representing a loss of 4,889 residents. Furthermore, the July 2022 Census American Community Survey estimates that the City has a population of 80,017, reflecting a further loss of 2,873 residents in two years.

The loss may be due to residential homes being used as second or third homes for individuals, their use as a short-term rental, or a conversion to another type of transient use. The conversion of permanent residences to short-term rentals or other type of transient use, such as a hotel or apartment-hotel, has had negative impacts on the quality of life of residents in some areas of the city. Transient uses impact traffic congestion due to a reduced residential supply and an increase in employees commuting longer distances to employment centers within the City. Additionally, guests at short-term rentals and hotels can create nuisances for permanent residents, as they may be partaking in activities that prevent the quiet enjoyment of residences.

Section 509.032, Florida Statutes provides that "*A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011*". As a result of this statute, the City cannot prohibit the short-term rental of residential units in areas where they were not prohibited prior to June 1, 2011. Consequently, the City has been seeking to create incentives to encourage property owners to voluntarily prohibit transient uses on their properties and in turn provide housing for permanent residents.

The proposed ordinance provides floor area ratio (FAR) and height incentives in three areas (see map at the end of this report) of the City to encourage property owners to voluntarily provide permanent residential uses instead of temporary lodging or other transient uses, including short-term rentals. The ordinance does not impact the maximum allowable residential density; as such it is likely that the additional FAR would be utilized to provide for larger residential units, additional amenities, or permitted accessory uses.

INCENTIVE REQUIREMENTS
The proposed ordinance creates uniform regulations that applicants must follow in order to utilize the incentives. The uniform requirements are created in section 7.1.10 of the Resiliency Code and entail the following to ensure that a site contains no transient uses:

a. ***Eligible Development.*** *Where authorized in the underlying zoning district or overlay district, and in accordance with all applicable regulations set forth in such zoning district or overlay district, residential developments consisting solely of non-transient residential units and allowable accessory uses shall be eligible for applicable incentives set forth in such zoning district or overlay district, subject to the following conditions:*

    1. ***Lodging Use Conversion and Prohibition.*** *In order to be eligible for the residential use incentives, the property shall be required to fully vacate any and all existing transient uses including, but not limited to, bed & breakfast inn, hostel, hotel, apartment hotel, suite hotel or rooming house. Such transient uses shall be prohibited in perpetuity in order to maintain the residential use incentives authorized for the applicable zoning district or overlay district.*

    2. ***Short Term Rental Conversion and Prohibition.*** *In order to be eligible for the*

voluntary residential use incentives authorized for the applicable zoning district or overlay district, the property owner(s) shall first be required to vacate any and all existing approvals for the short-term rental of any apartment units on the property.

3. ***Covenant.*** *As a condition of eligibility for the voluntary residential use incentives authorized for the applicable zoning district or overlay district, the property owner(s) shall first be required to execute a restrictive covenant running with the land, in a form approved by the City Attorney, affirming that in perpetuity no residential units on the property shall be leased or rented for a period of less than six months and one day, and that no transient uses including, but not limited to, bed & breakfast inn, hostel, hotel, apartment hotel, suite hotel or rooming house, shall be permitted on the property.*

4. ***Certificate of Appropriateness.*** *If the property is located within a local historic district or site, as a condition of eligibility for the voluntary residential use incentives authorized for the applicable zoning district or overlay district, the property owner(s) shall be required to obtain a certificate of appropriateness in accordance with chapter 2, article VIII of the land development regulations of the city code, including, but not limited to, historic preservation board approval for the demolition of or modifications to a contributing building.*

b. There shall be no variances from the requirements of this section for eligible developments.

INCENTIVE AREAS
Mid Beach RM-2/RM-3 Area
The proposed ordinance establishes a "Mid Beach Residential Incentive Area" within the RM-2 and RM-3 districts. The incentive areas cover the RM-2 and RM-3 properties that front Collins Avenue between 47th Street on the south and 63rd Street on the north. Portions of this incentive area would fall within the Morris Lapidus/Mid 20th Century Historic District, North Beach Resort Historic District, and The Bath Club Historic Site.

For the **RM-2 district**, the following incentives are provided:

DEVELOPMENT REGULATIONS TABLE:	
Maximum FAR	*2.3*
BUILDING HEIGHT	
Maximum Height	*75*
Historic District	*65*
For properties outside a local historic district with a ground level consisting of non-habitable parking and/or amenity uses	*80*

For reference, the current maximum FAR in the RM-2 district is 2.0, and the maximum height limits are:

- 60 feet outside of an historic district
- 50 feet within an historic district
- 65 feet for properties outside a local historic district with a ground level consisting of non-habitable parking and/or amenity uses

The FAR incentive represents an increase of 15 percent. In the unlikely scenario that all properties within the affected area utilized the incentive, there would be a potential increase of approximately 16,168 square feet of floor area (see Data Tables at the end of this report). This scenario is not likely given the number of existing non-conforming properties that exceed the incentive FAR. The height increase would generally allow for one additional floor.

For the **RM-3 district**, the following incentives are provided:

DEVELOPMENT REGULATIONS TABLE:	
Maximum FAR	
Lot area equal to or less than 45,000 square feet	*2.6*
Lot area greater than 45,000 square feet	*3.2*
Oceanfront lots with lot area greater than 45,000 square feet	*3.5*
BUILDING HEIGHT	
Maximum Height	*170*
Oceanfront Lots	*220*
Ground floor additions (whether attached or detached) to existing structures on oceanfront lots	*60*

For reference, the current maximum FAR limits in the RM-3 district are:

- 2.25 for lot area equal to or less than 45,000 square feet
- 2.75 for lot area greater than 45,000 square feet
- 3.0 for oceanfront lots with lot area greater than 45,000 square feet

The maximum height limits in the RM-3 district are:

- 150 feet for non-oceanfront lots
- 200 feet for oceanfront lots
- 50 feet for ground floor additions to existing structures on oceanfront lots

The FAR incentive represents an increase of 16 percent. In the unlikely scenario that all properties within the affected area utilized the incentive, there would be a potential increase of approximately 147,630 square feet of floor area (see Data Tables at the end of this report). The height increase would generally allow for one or two additional floors.

South Beach R-PS4 District
The proposed ordinance establishes incentives for properties with R-PS4 zoning; these parcels are generally located along Ocean Drive between 5th Street and South Point Park and portions of this area are in the Ocean Beach Historic District. Recently, the City Commission adopted ordinance 2023-4555 which created incentives for existing hotels that exceed the current maximum FAR of 2.0. Specifically, it allowed qualifying properties an FAR of up to 2.75.

The proposed ordinance expands on this incentive, as it applies to all properties in the R-PS4 district in order to incentivize the removal of short-term rentals and hotels that may not have qualified for the prior incentive. However, this ordinance does not increase the FAR to the same intensity.

The incentive in the proposed ordinance allows for a maximum FAR of 2.25 from the current maximum of 2.0. The ordinance also provides for a height limit to increase to 115 feet from the current maximum of 100 feet.

The FAR incentive represents an increase of approximately 13 percent. In the unlikely scenario that all properties within the affected area utilized the incentive, there would be a potential increase of approximately 38,511 square feet of floor area (see Data Tables at the end of this report). The height increase would generally allow for one additional floor.

West Avenue Bayfront Overlay
The proposed ordinance provides incentives for existing legally nonconforming hotels, apartment hotels, suite hotels, and hostels within the RM-1 and RM-2 districts that are located within the West Avenue Bayfront Overlay to convert to residential uses. This contrasts with the incentives for the other areas that apply to all properties within the affected area. The primary reason for the difference is that many transient uses were already prohibited in the area. A windshield survey of the area indicates that there are currently approximately six such establishments.

In the **RM-1 district**, the proposed incentive allows for an increase of the maximum FAR to 1.6 from the current 1.25. The height limit would increase to 65 feet, from the current 50 feet, for affected properties. This would allow for approximately one additional floor.

The RM-1 FAR incentive represents an increase of approximately 28%. If all affected parcels were to utilize the incentives in the RM-1 district, there would be a potential increase of 12,272 square feet of floor area (see Data Tables at the end of this report).

In the **RM-2 district**, he proposed incentive allows for an increase of the maximum FAR to 2.5 from the current 2.0. The height limit would increase as follows, resulting approximately one to two additional floors:

- 75 feet from the current 60 feet for non-oceanfront lots
- 125 feet from the current 100 feet for lots fronting Biscayne Bay less than 45,000 square feet
- 165 feet from the current 140 feet for lots fronting Biscayne Bay over 45,000 square feet

The RM-2 FAR incentive represents an increase of approximately 25%. If all affected parcels

were to utilize the incentives in the RM-2 district, there would be a potential increase of 12,581 square feet of floor area (see Data Tables at the end of this report).

In the RM-2 district, the incentives also allow for accessory office, neighborhood specific retail or personal service establishments, with access from the main lobby or from the street. It also provides that tattoo studios and massage therapy centers are prohibited as accessory uses.

The combined FAR incentive for the RM-1 and RM-2 districts would represent an increase of 24,861 square feet, if all properties were to take advantage of the incentives.

SUMMARY

The proposed amendment to the Resiliency Code contains incentives that could greatly reduce the number of transient uses and facilitate permanent residents to move into the City. This could also reduce nuisances to existing residents related to excessive tourism in predominantly residential areas. If all properties took advantage of the incentives provided, there would be increase in 227,170 square feet. As the ordinance does not increase the maximum allowable residential density, the incentives would primarily result in larger units, amenities, and accessory uses compared to what is allowed today.

Staff is supportive of the proposed amendments to the Comprehensive Plan and Resiliency Code, as they should result in an improved quality of life by reducing traffic impacts and nuisances.

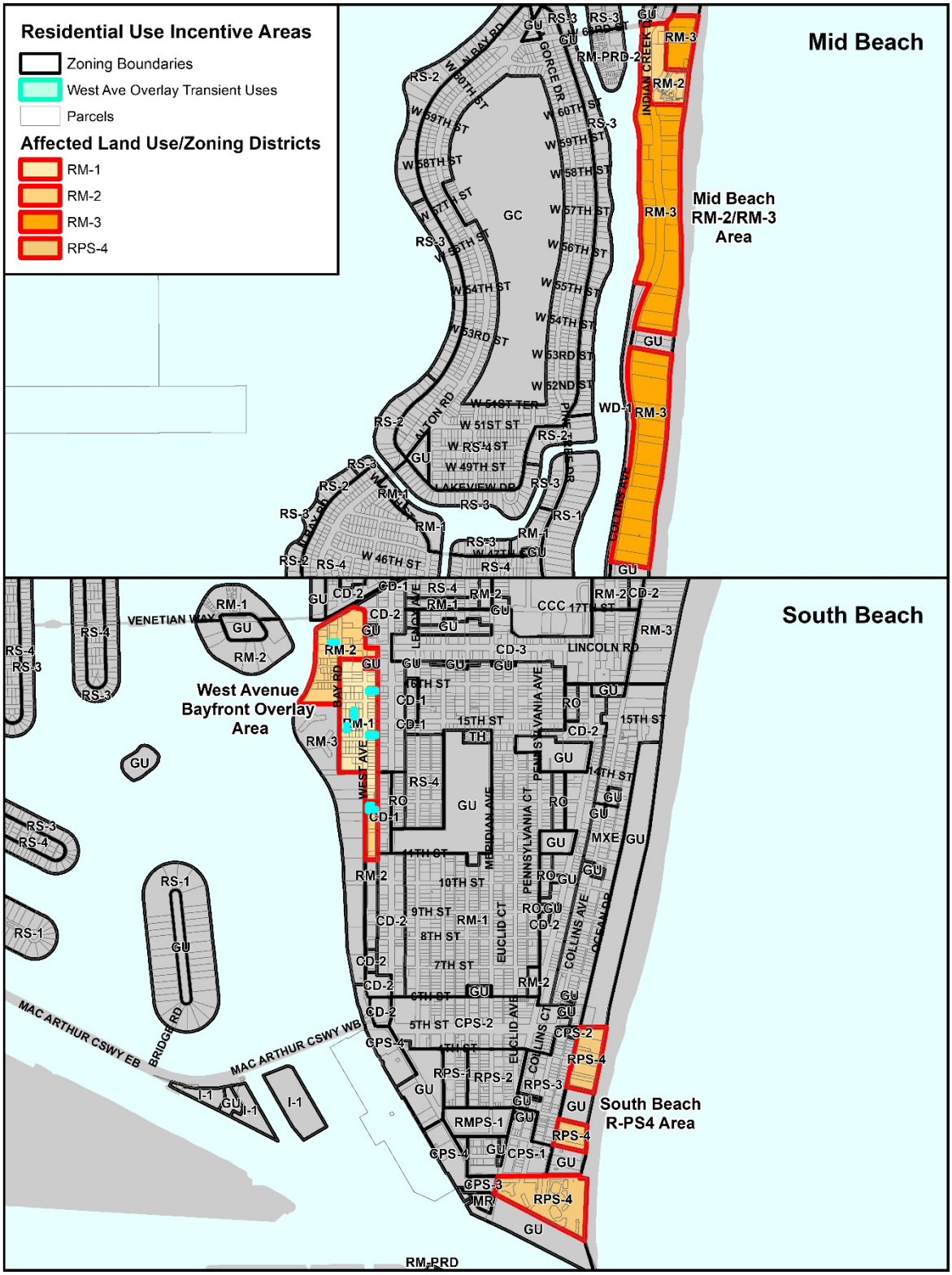
COMPREHENSIVE PLAN AMENDMENT AND REVIEW PROCESS

The proposal requires an amendment to the Comprehensive Plan. The companion Comprehensive Plan amendment authorizes the FAR increases within the RM-1, RM-2, RM-3, and R-PS4 future land use categories. The amendment also provides that the incentives are only available by voluntarily agreeing to the requirements of the Residential Use Incentives through a new policy 1.2.8.

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


Residential Use Incentive Areas
Zoning Boundaries
West Ave Overlay Transient Uses
Parcels
Affected Land Use/Zoning Districts
RM-1
RM-2
RM-3
RPS-4
Mid Beach
Mid Beach RM-2/RM-3 Area
South Beach
West Avenue Bayfront Overlay Area
South Beach R-PS4 Area
GC
GU
RM-1
RM-2
RM-3
RS-1
RS-2
RS-3
RS-4
RM-PRD-2
WD-1
CD-1
CD-2
CD-3
RO
MXE
CPS-1
CPS-2
CPS-3
CPS-4
RPS-1
RPS-2
RPS-3
RPS-4
RMPS-1
I-1
MR
RM-PRD
W 60TH ST
W 59TH ST
W 58TH ST
W 57TH ST
W 56TH ST
W 55TH ST
W 54TH ST
W 53RD ST
W 52ND ST
W 51ST TER
W 51ST ST
W 50TH ST
W 49TH ST
W 47TH ST
W 46TH ST
LAKEVIEW DR
ALTON RD
GORCE DR
INDIAN CREEK DR
COLLINS AVE
OCEAN DR
LINCOLN RD
17TH ST
15TH ST
14TH ST
10TH ST
9TH ST
8TH ST
7TH ST
6TH ST
5TH ST
4TH ST
VENETIAN WAY
BAY RD
WEST AVE
MERIDIAN AVE
PENNSYLVANIA AVE
PENNSYLVANIA CT
EUCLID AVE
EUCLID CT
COLLINS CT
MAC ARTHUR CSWY EB
MAC ARTHUR CSWY WB
BRIDGE RD

Residential Incentive Areas Data

Total Potential Floor Area Increase	***227,170***

West Avenue Overlay Residential Use Incentives for Transient Uses							
Zoning	**Lot Area (SF)**	**Current FAR**	**Incentive FAR**	**% Increase**	**Current Max Floor Area (SF)**	**Incentive Max Floor Area (SF)**	**Potential Floor Area Increase (SF)**
RM-1	9,392	1.25	1.6	28%	11,740	15,027	3,287
RM-1	6,938	1.25	1.6	28%	8,672	11,100	2,428
RM-1	9,364	1.25	1.6	28%	11,705	14,983	3,277
RM-1	9,372	1.25	1.6	28%	11,715	14,995	3,280
RM-2	6,804	2.0	2.5	25%	13,607	17,009	3,402
RM-2	9,551	2.0	2.5	25%	19,102	23,878	4,776
RM-2	8,822	2.0	2.5	25%	17,644	22,055	4,411
West Avenue Overlay Sub-Total							***24,861***

Mid Beach RM-2 Residential Use Incentive Areas							
Zoning	Lot Area (SF)	Current FAR	Incentive FAR	% Increase	Current Max Floor Area (SF)	Incentive Max Floor Area (SF)	Potential Floor Area Increase (SF)
RM-2	3,415	2.0	2.3	15%	6,829	7,854	1,024
RM-2	3,224	2.0	2.3	15%	6,448	7,415	967
RM-2	11,443	2.0	2.3	15%	22,886	26,319	3,433
RM-2	3,163	2.0	2.3	15%	6,326	7,274	949
RM-2	2,098	2.0	2.3	15%	4,196	4,825	629
RM-2	3,700	2.0	2.3	15%	7,400	8,510	1,110
RM-2	16	2.0	2.3	15%	32	37	5
RM-2	23	2.0	2.3	15%	47	54	7
RM-2	66	2.0	2.3	15%	132	151	20
RM-2	158	2.0	2.3	15%	316	363	47
RM-2	85	2.0	2.3	15%	169	195	25
RM-2	106	2.0	2.3	15%	212	243	32
RM-2	6,266	2.0	2.3	15%	12,532	14,412	1,880
RM-2	2,145	2.0	2.3	15%	4,291	4,935	644
RM-2	291	2.0	2.3	15%	582	669	87
RM-2	30	2.0	2.3	15%	60	69	9
RM-2	48	2.0	2.3	15%	95	109	14
RM-2	558	2.0	2.3	15%	1,115	1,283	167
RM-2	16	2.0	2.3	15%	32	36	5
RM-2	7	2.0	2.3	15%	14	17	2
RM-2	9	2.0	2.3	15%	18	21	3
RM-2	26	2.0	2.3	15%	52	60	8
RM-2	39	2.0	2.3	15%	78	89	12
RM-2	60	2.0	2.3	15%	120	138	18
RM-2	14	2.0	2.3	15%	29	33	4
RM-2	146	2.0	2.3	15%	292	336	44
RM-2	56	2.0	2.3	15%	111	128	17
RM-2	234	2.0	2.3	15%	468	538	70
RM-2	201	2.0	2.3	15%	402	463	60
RM-2	388	2.0	2.3	15%	775	892	116
RM-2	358	2.0	2.3	15%	716	823	107
RM-2	2,505	2.0	2.3	15%	5,010	5,762	752
RM-2	6,806	2.0	2.3	15%	13,611	15,653	2,042
RM-2	3,195	2.0	2.3	15%	6,390	7,348	958
RM-2	108	2.0	2.3	15%	216	248	32
RM-2	2,891	2.0	2.3	15%	5,783	6,650	867
RM-2 Sub-Total							***16,168***

Mid Beach RM-3 Residential Use Incentive Areas							
Zoning	Lot Area (SF)	Current FAR	Incentive FAR	% Increase	Current Max Floor Area (SF)	Incentive Max Floor Area (SF)	Potential Floor Area Increase (SF)
RM-3	4,216	2.25	2.6	16%	9,485	10,960	1,475
RM-3	2,697	2.25	2.6	16%	6,069	7,013	944
RM-3	13,330	2.25	2.6	16%	29,992	34,658	4,665
RM-3	1,163	2.25	2.6	16%	2,616	3,023	407
RM-3	6,972	2.25	2.6	16%	15,686	18,126	2,440
RM-3	36	2.25	2.6	16%	80	92	12
RM-3	8,252	2.25	2.6	16%	18,566	21,454	2,888
RM-3	5,436	2.25	2.6	16%	12,230	14,133	1,902
RM-3	2,443	2.25	2.6	16%	5,496	6,351	855
RM-3	3,259	2.25	2.6	16%	7,332	8,473	1,141
RM-3	4,472	2.25	2.6	16%	10,062	11,627	1,565
RM-3	5,363	2.25	2.6	16%	12,067	13,945	1,877
RM-3	3,483	2.25	2.6	16%	7,838	9,057	1,219
RM-3	14,195	2.25	2.6	16%	31,939	36,907	4,968
RM-3	10,410	2.25	2.6	16%	23,421	27,065	3,643
RM-3	15,497	2.25	2.6	16%	34,867	40,291	5,424
RM-3	6,342	2.25	2.6	16%	14,270	16,490	2,220
RM-3	14,343	2.25	2.6	16%	32,272	37,292	5,020
RM-3	16,273	2.25	2.6	16%	36,615	42,310	5,696
RM-3	7,104	2.25	2.6	16%	15,984	18,471	2,486
RM-3	13,126	2.25	2.6	16%	29,534	34,129	4,594
RM-3	3,894	2.25	2.6	16%	8,761	10,123	1,363
RM-3	11,338	2.25	2.6	16%	25,510	29,478	3,968
RM-3	15,318	2.25	2.6	16%	34,467	39,828	5,361
RM-3	19,989	2.25	2.6	16%	44,975	51,971	6,996
RM-3	14,775	2.25	2.6	16%	33,243	38,414	5,171
RM-3	5,448	2.25	2.6	16%	12,258	14,165	1,907
RM-3	25,541	2.25	2.6	16%	57,468	66,407	8,939
RM-3	12,736	2.25	2.6	16%	28,657	33,114	4,458
RM-3	11,915	2.25	2.6	16%	26,810	30,980	4,170
RM-3	8,251	2.25	2.6	16%	18,565	21,453	2,888
RM-3	7,765	2.25	2.6	16%	17,472	20,190	2,718
RM-3	13,563	2.25	2.6	16%	30,517	35,264	4,747
RM-3	9,140	2.25	2.6	16%	20,564	23,763	3,199
RM-3	14,955	2.25	2.6	16%	33,649	38,883	5,234
RM-3	7,764	2.25	2.6	16%	17,470	20,187	2,717
RM-3	7,450	2.25	2.6	16%	16,762	19,370	2,607
RM-3	8,631	2.25	2.6	16%	19,419	22,440	3,021
RM-3	9,467	2.25	2.6	16%	21,300	24,613	3,313
RM-3	11,766	2.25	2.6	16%	26,473	30,591	4,118
RM-3	16,976	2.25	2.6	16%	38,197	44,139	5,942
RM-3	7,436	2.25	2.6	16%	16,731	19,333	2,603
RM-3	4,998	2.25	2.6	16%	11,247	12,996	1,749
RM-3	14,274	2.25	2.6	16%	32,116	37,112	4,996
RM-3 Sub-Total							***147,630***

RPS-4 Residential Use Incentive Areas							
Zoning	Lot Area (SF)	Current FAR	Incentive FAR	% Increase	Current Max Floor Area (SF)	Incentive Max Floor Area (SF)	Potential Floor Area Increase (SF)
RPS-4	7,708	2.0	2.25	13%	15,415	17,342	1,927
RPS-4	153	2.0	2.25	13%	306	345	38
RPS-4	13	2.0	2.25	13%	25	28	3
RPS-4	2,753	2.0	2.25	13%	5,506	6,195	688
RPS-4	1,803	2.0	2.25	13%	3,606	4,057	451
RPS-4	1,993	2.0	2.25	13%	3,986	4,484	498
RPS-4	7,502	2.0	2.25	13%	15,004	16,879	1,875
RPS-4	1,078	2.0	2.25	13%	2,157	2,426	270
RPS-4	4,825	2.0	2.25	13%	9,650	10,856	1,206
RPS-4	2,129	2.0	2.25	13%	4,259	4,791	532
RPS-4	537	2.0	2.25	13%	1,073	1,207	134
RPS-4	1,919	2.0	2.25	13%	3,838	4,318	480
RPS-4	681	2.0	2.25	13%	1,361	1,532	170
RPS-4	6,329	2.0	2.25	13%	12,658	14,240	1,582
RPS-4	7,573	2.0	2.25	13%	15,145	17,038	1,893
RPS-4	3,040	2.0	2.25	13%	6,080	6,840	760
RPS-4	1,957	2.0	2.25	13%	3,915	4,404	489
RPS-4	6,472	2.0	2.25	13%	12,945	14,563	1,618
RPS-4	1,954	2.0	2.25	13%	3,908	4,397	489
RPS-4	2,400	2.0	2.25	13%	4,799	5,399	600
RPS-4	987	2.0	2.25	13%	1,974	2,221	247
RPS-4	7,122	2.0	2.25	13%	14,244	16,025	1,781
RPS-4	1,049	2.0	2.25	13%	2,098	2,360	262
RPS-4	1,439	2.0	2.25	13%	2,879	3,238	360
RPS-4	9	2.0	2.25	13%	17	19	2
RPS-4	2,534	2.0	2.25	13%	5,068	5,702	634
RPS-4	822	2.0	2.25	13%	1,644	1,850	206
RPS-4	4,857	2.0	2.25	13%	9,714	10,928	1,214
RPS-4	19,613	2.0	2.25	13%	39,225	44,128	4,903
RPS-4	2,088	2.0	2.25	13%	4,176	4,698	522
RPS-4	50,707	2.0	2.25	13%	101,413	114,090	12,677
RPS-4 Sub-Total							***38,511***

PB23-0644 - Residential Use Incentives Comprehensive Plan Amendment

COMPREHENSIVE PLAN AMENDMENT
RESIDENTIAL USE INCENTIVES

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," AT TABLE RLU 1.1 TO PROVIDE CONSISTENCY WITH FLOOR AREA RATIO (F.A.R.) REGULATIONS; AT POLICY RLU 1.1.5 ENTITLED "LOW DENSITY MULTI FAMILY RESIDENTIAL (RM-1)," TO PROVIDE F.A.R. INCENTIVES TO ENCOURAGE THE CONVERSION OF LEGALLY ESTABLISHED TRANSIENT USES TO RESIDENTIAL USES IN THE "WEST AVENUE BAYFRONT OVERLAY;" BY AMENDING POLICY RLU 1.1.6 ENTITLED "MEDIUM DENSITY MULTI FAMILY RESIDENTIAL (RM-2)," TO PROVIDE F.A.R. INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO RESIDENTIAL USES FOR PROPERTIES LOCATED IN THE "MID BEACH RESIDENTIAL USE INCENTIVE AREA," AND TO PROVIDE FAR INCENTIVES FOR AND TO PROVIDE FAR INCENTIVES TO ENCOURAGE THE CONVERSION OF LEGALLY ESTABLISHED TRANSIENT USES TO RESIDENTIAL USES IN THE "WEST AVENUE BAYFRONT OVERLAY;" BY AMENDING POLICY RLU 1.1.7 ENTITLED "HIGH DENSITY MULTI FAMILY RESIDENTIAL (RM-3)," TO PROVIDE F.A.R. INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO RESIDENTIAL USES FOR PROPERTIES LOCATED IN THE "MID BEACH RESIDENTIAL USE INCENTIVE AREA;" BY AMENDING POLICY 1.1.25, ENTITLED "HIGH DENSITY RESIDENTIAL PERFORMANCE STANDARD (R-PS-4)," TO PROVIDE F.A.R. INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO RESIDENTIAL USES; TO ESTABLISH POLICY 1.2.8 ENTITLED "RESIDENTIAL USE INCENTIVES," TO PROVIDE MINIMUM STANDARDS FOR OBTAINING THE AFORMENTIONED F.A.R. INCENTIVES; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, TRANSMITTAL AND AN EFFECTIVE DATE.

WHEREAS, the 2010 US Census indicated that the City of Miami Beach had a population of 87,779; and

WHEREAS, the 2020 US Census indicated that the City of Miami Beach had a population of 82,890; and

WHEREAS, between 2010 and 2020, the City of Miami Beach lost a net total of 4,889 residents; and

WHEREAS, the July 2022 Census American Community Survey estimates that the City of Miam Beach has a population of 80,017, reflecting a further loss of 2,873 residents since the

2020 Census; and

WHEREAS, the City finds the loss of permanent residents may have had a negative impact on the quality of life of remaining residents, by encouraging more traffic congestion due to the need for employees to commute longer distances to employment centers within the City; and

WHEREAS, the loss of residents is partially due to the conversion of residential units to short-term rentals or other transient unit; and

WHEREAS, the introduction of transient units in predominantly residential areas has created nuisances for residents and often prevents the quiet enjoyment of their residences; and

WHEREAS, Section 509.032, Florida Statutes provides that "*A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011*," and

WHEREAS, per Section 509.032, Florida Statutes, the City of Miami Beach cannot prohibit short-term rental of residential units in areas where they were not prohibited prior to June 1, 2011; and

WHEREAS, the City seeks to establish incentives in order to encourage residential development that will not be used for short-term rentals or other transient uses in order to encourage the growth of the permanent resident population; 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 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. 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

The City hereby adopts future land use map categories to provide for an efficient distribution and compatible pattern of land uses, and to maintain and enhance the character of the community.

* * *

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 1.1.5 LOW DENSITY MULTI FAMILY RESIDENTIAL (RM-1)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new medium density multi-family residential areas.

Uses which may be permitted: Single family detached dwellings; single family attached dwellings, townhouse dwellings and multiple family dwellings, and hotels for properties fronting Harding Avenue or Collins Avenue from the City Line on the north to 73rd Street on the south.

Non-conforming buildings containing non-conforming hotel uses, located on the north side of Belle Isle, and not within a local historic district, may be reconstructed to a maximum of 50% of the floor

area of the existing building, provided that the uses contained within the hotel are not expanded in any way, including but not limited to, the number of hotel units and accessory food and beverage uses, the non-conformity of the building is lessened, and required parking for the surrounding neighborhoods with a minimum reduction of 50% of the daily trips on adjacent, two lane, arterial roadways, and improving the resiliency of the building.

Bed and breakfast inns are permitted in RM-1 only in the Flamingo Park Historic District and the West Avenue Bay ~~F~~front Overlay District, both of which are described in the Land Development Regulations. Within the RM-1 future land use category, and only in the Flamingo Park Historic District, apartment hotels, hotels, and suite hotels are permitted for properties abutting Lincoln Lane South, between Drexel Avenue and Lenox Avenue. Residential office and suite hotel uses are permitted in the West Avenue Bay Front Overlay District only. Hotels, apartment hotels, and suite hotels are permitted on properties located north of Normandy Drive, having a lot area greater than 30,000 square feet, which are individually designated as an historic site, as described in the Land Development Regulations.

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: 60 dwellings units per acre.

Intensity 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:

- the west side of Collins Avenue between 76th and 79th Streets shall not exceed a floor area ratio of 1.4; and
- Public and private institutions on a lot area equal to or less than 15,000 sq. ft shall not exceed a floor area ratio of 1.25, or for a lot area greater than 15,000 sq. ft. the floor area ratio shall not exceed 1.4.
- For a legally established, conforming or non-conforming, bed and breakfast inn, hotel, apartment hotel, suite hotel, or hostel located in the West Avenue Bayfront Overlay District that are converted to a conforming residential apartment use, and in compliance with the requirements for Residential Use Incentives in Policy RLU 1.2.8, the floor area ratio shall not exceed 1.6.

POLICY RLU 1.1.6 MEDIUM DENSITY MULTI FAMILY RESIDENTIAL (RM-2)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new medium density multi-family residential areas.

Uses which may be permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, multiple family dwellings, apartment hotels and hotels. Residential office uses are permitted in RM-2 only in the West Avenue Bay ~~F~~front Overlay District, as described in

the Land Development Regulations. Places of assembly, restaurant, retail, and general office uses are main permitted uses in the Faena District Overlay as set forth in the Land Development Regulations.

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: 100 dwelling units per acre.

Intensity 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 2.0~~.~~, except as follows:

- For a legally established, conforming or non-conforming, bed and breakfast inn, hotel, apartment hotel, suite hotel, or hostel located in the West Avenue Bayfront Overlay District that are converted to a conforming residential apartment use, and in compliance with the Residential Use Incentive requirements in Policy RLU 1.2.8, the floor area ratio shall not exceed 2.5.
- For developments located in the Mid Beach Residential Use Incentive Area, as described in the Land Development Regulations, that comply with the requirements for Residential Use Incentives in Policy RLU 1.2.8, the floor area ratio shall not exceed 2.3.

POLICY RLU 1.1.7 HIGH DENSITY MULTI FAMILY RESIDENTIAL (RM-3)

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new high density multi-family residential and hotel areas.

Uses which may be permitted: Single family detached dwellings, single family attached dwellings, townhouse dwellings, multiple family dwellings, apartment hotels and hotels.

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: 150 dwelling units per acre.

Intensity 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 the following:

- a floor area ratio of 2.25 on lot area equal to or less than 45,000 sq. ft.;

- a floor area ratio of 2.75 on lot area greater than 45,000 sq. ft.;
- a floor area ratio 3.0 on oceanfront lots with lot area greater than 45,000 sq. ft.;
- a floor area ratio of 2.0 on oceanfront lots in architectural district;
- a floor area ratio of 3.0 for lots which, as of November 14, 1998, are oceanfront lots with a lot area greater than 100,000 sq. ft. with an existing building, however, the lesser of an additional floor area ratio of 0.15 or 20,000 sq. ft. for the purpose of providing hotel amenities.
- For developments located in the Mid Beach Residential Use Incentive Area, as described in the Land Development Regulations, that comply with the requirements for Residential Use Incentives in Policy RLU 1.2.8, the floor area ratio shall not exceed the following:
    - a floor area ratio of 2.6 on lot area equal to or less than 45,000 sq. ft.;
    - a floor area ratio of 3.2 on lot area greater than 45,000 sq. ft.;
    - a floor area ratio 3.5 on oceanfront lots with lot area greater than 45,000 sq. ft.;

* * *

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, except as follows:

- For developments that comply with the requirements for Residential Use Incentives in Policy RLU 1.2.8, the floor area ratio shall not exceed 2.25.

- ~~Notwithstanding the foregoing FAR limitations, f~~For properties with a main use of hotel as of January 1, 2022 within the R-PS-4 land use category, the City Commission may adopt Land Development Regulations to increase the maximum FAR to 2.75 as a voluntary development incentive, subject to the property owner's voluntary agreement to strictly comply with the following conditions:

    1. The main use on the property shall be converted to residential and shall remain residential in perpetuity; hostel, hotel, apartment-hotel, and suite-hotel use shall be prohibited.

2. A new structure, consisting solely of main-use residential and allowable accessory uses, may be constructed, in accordance with all applicable development regulations with a maximum FAR of 2.75. Alternatively, the entire existing building may be converted to main-use residential and allowable accessory uses, including any repairs, alterations and modifications that may exceed the 50% rule in the Land Development Regulations, provided any alterations and modifications do not result in the building exceeding an FAR of 2.75.

3. A property shall only be eligible for the FAR incentive set forth in this section, not to exceed a total FAR of 2.75, if the property owner elects, at the owner's sole discretion, to voluntarily execute a restrictive covenant running with the land, in a form approved by the city attorney, affirming that, in perpetuity, none of the residential units on the property shall be leased or rented for a period of less than six months and one day.

* * *

OBJECTIVE RLU 1.2: LAND USE REGULATION

Future growth and development, redevelopment and rehabilitation will be managed through the preparation, adoption, implementation, and enforcement of land development regulations (LDR) consistent with the Comprehensive Plan and with s.163.3202, F.S.

* * *

POLICY 1.2.8 RESIDENTIAL USE INCENTIVES

Where authorized in the underlying future land use category, and in accordance with all applicable regulations set forth in the Comprehensive Plan and Land Development Regulations, residential developments consisting solely of non-transient residential units and allowable accessory uses shall be eligible for applicable incentives set forth in such future land use category, subject to the following conditions:

1. **Lodging Use Conversion and Prohibition.** In order to be eligible for the residential use incentives, the property shall be required to fully vacate any and all existing transient uses including, but not limited to, bed & breakfast inn, hostel, hotel, apartment hotel, suite hotel or rooming house. Such transient uses shall be prohibited in perpetuity to maintain the residential use incentives.

2. **Short Term Rental Conversion and Prohibition.** In order to be eligible for the residential use incentive, the property owner(s), at the owner's sole discretion, shall voluntarily vacate any and all existing approvals for the short-term rental of any apartment units on the property.

3. **Covenant.** The property owner(s), at the owner's sole discretion, shall voluntarily execute a restrictive covenant running with the land, in a form approved by the City Attorney, affirming that in perpetuity no residential units on the property shall be leased or rented for a period of less than six months and one day and that no transient uses including, but not limited to, bed & breakfast inn, hostel, hotel, apartment hotel, suite hotel or rooming house, shall be permitted on the property.

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 until 31 days after the state land planning agency notifies the City that the plan amendment package is complete following adoption, pursuant to Section 163. 3184(3), Florida Statutes.

PASSED and **ADOPTED** this _____ day of _____, 2024.

_____
Steven Meiner, Mayor

ATTEST:

_____
Rafael E. Granado
City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

_____ _____
City Attorney Date

First Reading: February 21, 2024
Second Reading: April 3, 2024

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

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PB23-0637 - Residential Use Incentives
Land Development Regulations Amendment

RESIDENTIAL USE INCENTIVES

ORDINANCE NO._____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH RESILIENCY CODE, BY AMENDING CHAPTER 7, ENTITLED "ZONING DISTRICTS AND REGULATIONS," BY AMENDING ARTICLE I, ENTITLED "GENERAL TO ALL ZONING DISTRICTS," TO ESTABLISH SECTION 7.1.10, ENTITLED "RESIDENTIAL USE INCENTIVES," TO CREATE REQUIREMENTS FOR DEVELOPMENTS ELIGIBLE FOR RESIDENTIAL USE INCENTIVES; BY AMENDING ARTICLE II, ENTITLED "DISTRICT REGULATIONS," AT SECTION 7.2.5, ENTITLED "RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY," TO ESTABLISH SUBSECTION 7.2.5.5 ENTITLED "MID BEACH RESIDENTIAL USE INCENTIVE AREA (RM-2)," TO PROVIDE FLOOR AREA RATIO (FAR) AND HEIGHT INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO RESIDENTIAL USES FOR PROPERTIES ZONED RM-2 THAT FRONT COLLINS AVENUE BETWEEN 47TH STREET ON THE SOUTH AND 63RD STREET ON THE NORTH; BY AMENDING SECTION 7.2.6, ENTITLED "RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY," TO ESTABLISH SUBSECTION 7.2.6.4, ENTITLED "MID BEACH RESIDENTIAL USE INCENTIVE AREA (RM-3)" TO PROVIDE FAR AND HEIGHT INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO RESIDENTIAL USES FOR PROPERTIES ZONED RM-3 THAT FRONT COLLINS AVENUE BETWEEN 47TH STREET ON THE SOUTH AND 63RD STREET ON THE NORTH; BY AMENDING SECTION 7.2.15, ENTITLED "PERFORMANCE STANDARD DISTRICT (PS)," SUBSECTION 7.2.15.2, ENTITLED "RESIDENTIAL PERFORMANCE STANDARDS DISTRICTS," TO PROVIDE FAR AND HEIGHT INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO RESIDENTIAL USES FOR PROPERTIES ZONED R-PS4; BY AMENDING ARTICLE III, "OVERLAY DISTRICTS," SECTION 7.3.3, ENTITLED "WEST AVENUE BAYFRONT OVERLAY," AT SUBSECTION 7.3.3.4, ENTITLED "LEGAL NONCONFORMING AND OTHER TRANSIENT USES (WEST AVENUE BAYFRONT OVERLAY)," TO PROVIDE FAR, HEIGHT AND USE INCENTIVES TO ENCOURAGE THE CONVERSION OF LEGALLY ESTABLISHED TRANSIENT USES TO RESIDENTIAL USES FOR PROPERTIES ZONED RM-1 AND RM-2 THAT ARE LOCATED WITHIN THE WEST AVENUE BAY FRONT OVERLAY; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the 2010 US Census indicated that the City of Miami Beach had a population of 87,779; and

WHEREAS, the 2020 US Census indicated that the City of Miami Beach had a population of 82,890; and

WHEREAS, between 2010 and 2020, the City of Miami Beach lost a net total of 4,889

residents; and

WHEREAS, the July 2022 Census American Community Survey estimates that the City of Miam Beach has a population of 80,017, reflecting a further loss of 2,873 residents since the 2020 Census; and

WHEREAS, the City finds the loss of permanent residents may have had a negative impact on the quality of life of remaining residents, by encouraging more traffic congestion due to the need for employees to commute longer distances to employment centers within the City; and

WHEREAS, the loss of residents is partially due to the conversion of residential units to short-term rentals or other transient units; and

WHEREAS, the introduction of transient units in predominantly residential areas has created nuisances for residents and often prevents the quiet enjoyment of their residences; and

WHEREAS, Section 509.032, Florida Statutes provides that "*A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011*"; and

WHEREAS, per Section 509.032, Florida Statutes, the City of Miami Beach cannot prohibit short-term rental of residential units in areas where they were not prohibited prior to June 1, 2011; and

WHEREAS, the City seeks to establish incentives in order to encourage residential development that will not be used for short-term rentals or other transient uses in order to encourage the growth of the permanent resident population; and

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

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

SECTION 1. Chapter 7, entitled "Zoning Districts and Regulations," Article I, entitled "General to All Zoning Districts," is hereby amended to establish section 7.1.10, entitled "Residential Use Incentives" as follows:

CHAPTER 7
ZONING DISTRICTS AND REGULATIONS

ARTICLE I: GENERAL TO ALL ZONING DISTRICTS

* * *

7.1.10 RESIDENTIAL USE INCENTIVES

a. **Eligible Development.** Where authorized in the underlying zoning district or overlay district, and in accordance with all applicable regulations set forth in such zoning district or overlay district, residential developments consisting solely of non-transient residential units and

allowable accessory uses shall be eligible for applicable incentives set forth in such zoning district or overlay district, subject to the following conditions:

1. **Lodging Use Conversion and Prohibition.** In order to be eligible for the residential use incentives, the property shall be required to fully vacate any and all existing transient uses including, but not limited to, bed & breakfast inn, hostel, hotel, apartment hotel, suite hotel or rooming house. Such transient uses shall be prohibited in perpetuity in order to maintain the residential use incentives authorized for the applicable zoning district or overlay district.

2. **Short Term Rental Conversion and Prohibition.** In order to be eligible for the voluntary residential use incentives authorized for the applicable zoning district or overlay district, the property owner(s) shall first be required to vacate any and all existing approvals for the short-term rental of any apartment units on the property.

3. **Covenant.** As a condition of eligibility for the voluntary residential use incentives authorized for the applicable zoning district or overlay district, the property owner(s) shall first be required to execute a restrictive covenant running with the land, in a form approved by the City Attorney, affirming that in perpetuity no residential units on the property shall be leased or rented for a period of less than six months and one day, and that no transient uses including, but not limited to, bed & breakfast inn, hostel, hotel, apartment hotel, suite hotel or rooming house, shall be permitted on the property.

4. **Certificate of Appropriateness.** If the property is located within a local historic district or site, as a condition of eligibility for the voluntary residential use incentives authorized for the applicable zoning district or overlay district, the property owner(s) shall be required to obtain a certificate of appropriateness in accordance with chapter 2, article VIII of the land development regulations of the city code, including, but not limited to, historic preservation board approval for the demolition of or modifications to a contributing building.

b. There shall be no variances from the requirements of this section for eligible developments.

SECTION 2. Chapter 7, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," at Section 7.2.5, entitled "RM-2 Residential Multifamily Medium Intensity" is hereby amended as follows:

ARTICLE II: DISTRICT REGULATIONS

* * *

7.2.5 RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY

* * *

7.2.5.5 MID BEACH RESIDENTIAL USE INCENTIVE AREA (RM-2)

a. **Location and Purpose (Mid Beach Residential Incentive Area – RM-2)**
The following regulations shall apply to properties that front Collins Avenue between 47th Street on the south and 63rd Street on the north. The purpose of the overlay shall be to incentivize the development of non-transient residential uses.

b. **Development Regulations (Mid Beach Residential Use Incentive Area (RM-2)**

For developments that comply with the requirements for "Residential Use Incentives" in section 7.1.10 of the Resiliency Code, the following regulations shall apply:

DEVELOPMENT REGULATIONS TABLE:	
Maximum FAR	2.3
BUILDING HEIGHT	
Maximum Height	75
Historic District	65
For properties outside a local historic district with a ground level consisting of non-habitable parking and/or amenity uses	80

SECTION 3. Chapter 7, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," at Section 7.2.6, entitled "RM-3 Residential Multifamily High Intensity" is hereby amended as follows:

7.2.6 RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY

* * *

7.2.6.4 MID BEACH RESIDENTIAL USE INCENTIVE AREA (RM-3)

a. **Location and Purpose (Mid Beach Residential Incentive Area – RM-3)**
The following regulations shall apply to properties that front Collins Avenue between 47th Street on the south and 63rd Street on the north. The purpose of the overlay shall be to incentivize the development of non-transient residential uses.

b. **Development Regulations (Mid Beach Residential Incentive Area (RM-3)**
For developments that comply with the requirements for "Residential Use Incentives" in section 7.1.10 of the Resiliency Code, the following regulations shall apply:

DEVELOPMENT REGULATIONS TABLE:	
Maximum FAR	
Lot area equal to or less than 45,000 square feet	2.6
Lot area greater than 45,000 square feet	3.2
Oceanfront lots with lot area greater than 45,000 square feet	3.5
BUILDING HEIGHT	
Maximum Height	170
Oceanfront Lots	220
Ground floor additions (whether attached or detached) to existing structures on oceanfront lots	60

SECTION 4. Chapter 7, entitled "Zoning Districts and Regulations," Article II, entitled "District Regulations," at Section 7.2.15, entitled "Performance Standard District (PS)" is hereby amended as follows:

7.2.15 PERFORMANCE STANDARD DISTRICT (PS)

* * *

7.2.15.2 Residential Performance Standards Districts

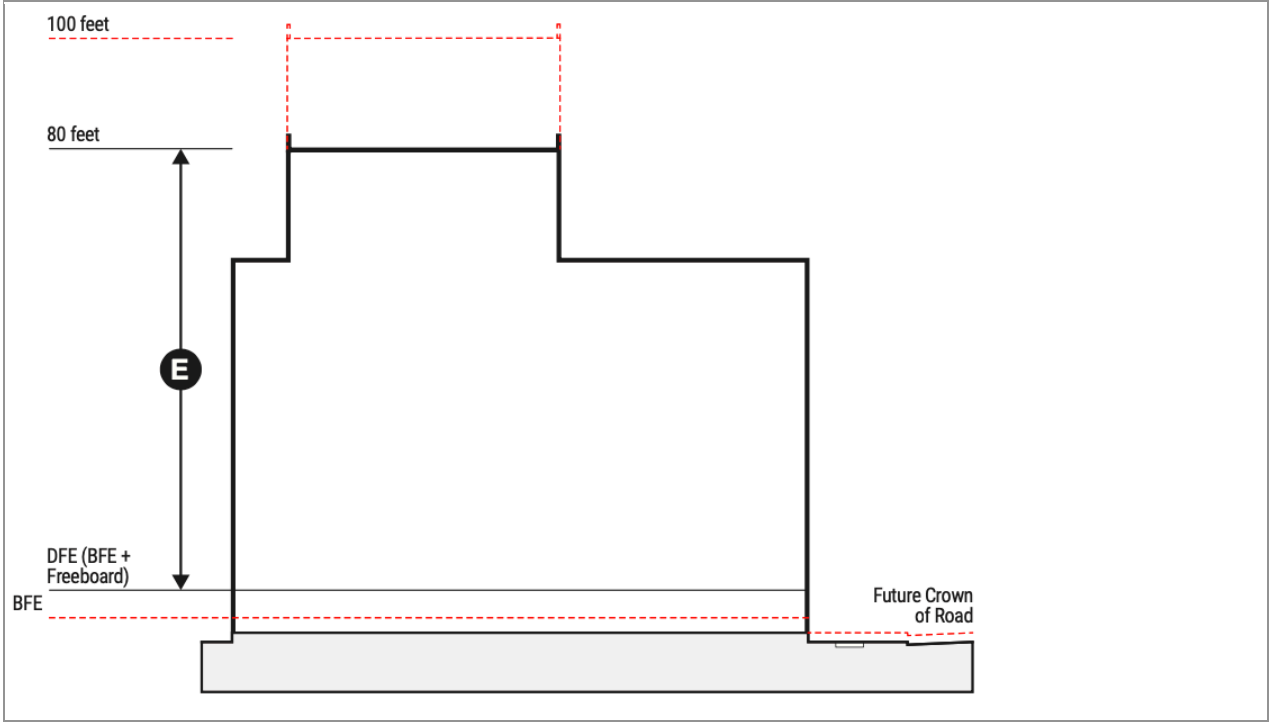
* * *

f. **Residential Performance Standard Area Requirements (R-PS)**
The development standards for residential performance standard districts are as follows:

DEVELOPMENT REGULATIONS TABLE (R-PS)				
	R-PS1	R-PS2	R-PS3	R-PS4
Maximum FAR	1.25	1.50	1.75	2.0 (8)
Maximum Density (Dwelling Units per Acre)	57 DUA (80% bonus for workforce or affordable units)	70 DUA (80% bonus for workforce or affordable units)	85 DUA (80% bonus for workforce or affordable units)	102 DUA (80% bonus for workforce or affordable units)

* * *

BUILDING HEIGHT	R-PS1	R-PS2	R-PS3	R-PS4
Maximum Height (feet) Ⓔ	45 feet (5) 40 feet - Lots 50 feet wide or less (5)			80 feet – Nonoceanfront Lots (5) 100 feet – Oceanfront Lots (5)(9) 40 feet – Lots 50 feet wide or less (5)



(1) All required setbacks shall be considered as minimum requirements except for the pedestal front yard setback and pedestal side yard facing a street setback which shall be considered as both minimum and maximum requirements.

* * *

(8) For developments that comply with the requirements for "Residential Use Incentives" in section 7.1.10 of the Resiliency Code, the maximum FAR shall be 2.25.

(9) For developments that comply with the requirements for "Residential Use Incentives" in section 7.1.10 of the Resiliency Code, the maximum height shall be 115 feet.

SECTION 5. Chapter 7, entitled "Zoning Districts and Regulations," Article III, entitled "Overlay Districts," at Section 7.3.3, entitled "West Avenue Bayfront Overlay" is hereby amended as follows:

ARTICLE III: OVERLAY DISTRICTS

* * *

7.3.3 WEST AVENUE BAYFRONT OVERLAY

* * *

7.3.3.4 Legal nonconforming and other transient uses (West Avenue Bayfront Overlay).

a. Bed and breakfast inns, hotels, apartment hotels, suite hotels and hostels shall be prohibited in the subject overlay area.

* * *

d. The following regulations shall apply to the conversion of a legally established, conforming or non-conforming, bed and breakfast inn, hotel, apartment hotel, suite hotel, or hostel located in the RM-1 or RM-2 district, to a conforming residential apartment use, notwithstanding the underlying district regulations in section 7.2.4.3 and 7.2.5.3.

1. For those properties located in the RM-1 district, the maximum floor area ratio (FAR) shall not exceed 1.6 and the maximum building height shall be 65 feet.

2. For those properties located in the RM-2 district, the maximum floor area ratio (FAR) shall not exceed 2.5 and the maximum building height shall be as follows:

   A. Non-oceanfront lots – 75 feet.

   B. Lots fronting Biscayne Bay less than 45,000 square feet – 125 feet.

   C. Lots fronting Biscayne Bay over 45,000 square feet – 165 feet.

3. In addition to the regulations in section 7.5.4.13, for those properties located in the RM-2 district, the following accessory uses may be permitted for apartment buildings:

   A. Office, neighborhood-specific retail or neighborhood-specific personal service establishment, with access from the main lobby or from the street. Tattoo studios and massage therapy centers shall be prohibited.

4. The development shall comply with the requirements for "Residential Use Incentives" in section 7.1.10 of the Resiliency Code.

SECTION 6. 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 7. 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 8. SEVERABILITY.

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

SECTION 9. EFFECTIVE DATE,

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2024

_____
Steven Meiner, Mayor

ATTEST:

_____
Rafael E. Granado, City Clerk.

APPROVED AS TO FORM AND LANGUAGE
AND FOR EXECUTION

_____
City Attorney Date

First Reading: February 21, 2024
Second Reading: April 3, 2024

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

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