MIAMI BEACH
PLANNING DEPARTMENT

Staff Report & Recommendation — PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: February 27, 2024

FROM: Thomas R. Mooney, AICP
Planning Director

SUBJECT: **PB24-0652. Height Regulations in CCC District.**

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

HISTORY
On September 13, 2023, at the request of former Mayor Dan Gelber, Commissioners Alex Fernandez and Laura Dominguez, and now Mayor Steven Meiner, the City Commission referred an amendment pertaining to the Live Local Act (the Act) to the Planning Board (Item C4 R). The purpose of this referral was for Planning staff to draft ordinance amendments to clarify the requirements of the Act within the City's development regulations and to address the maximum building height provisions set forth in the Act.

On October 24, 2023, the Planning Board held a public hearing and transmitted an ordinance to the City Commission with a favorable recommendation (7-0), which, among other things, amended the maximum building height requirements in certain zoning districts south of 23rd Street. On January 31, 2024, the City Commission approved the ordinance at First Reading and scheduled a Second Reading public hearing for February 21, 2024 (Item R5 X).

The City Commission also made a separate referral to the Planning Board to amend the height regulations in the CCC District.

REVIEW CRITERIA
Pursuant to Section 2.4.2 of the Resiliency Code, in reviewing a request for an amendment to these land development regulations (LDRs), the board shall consider the following when applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

   Consistent – The proposed ordinance is consistent with the goals, objectives, and policies of the Comprehensive Plan.

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

Consistent – The proposed amendment does not create an isolated district unrelated to adjacent or nearby districts.

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

Consistent - The proposed ordinance will modify the scale of development to make it more compatible with historic development patterns, as such, it is not out of scale with the needs of the neighborhood.

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

Consistent – The proposed ordinance will not affect the load on public facilities and infrastructure as the maximum floor area ratio (FAR) is not modified.

5. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.

Not applicable – The proposed amendment does not modify district boundaries.

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

Consistent – The need to ensure that new development is compatible with existing development patterns in Flamingo Park, Palm View, and Museum Historic Districts as well as the Miami Beach Architectural District considering changes to state laws makes the 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 ordinance will not create or increase traffic congestion from what is currently permitted, as the maximum allowable intensity (FAR) in the applicable zoning districts is not being modified by this ordinance.

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

Consistent – The proposed change will improve light and air on adjacent areas.

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 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 certain 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 7.1.2.4 of the LDRs 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 not impact the resiliency of the City with respect to sea level rise.

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

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

BACKGROUND

On March 24, 2023, the Florida Legislature adopted Senate Bill 102, known as the "Live Local Act" which, in pertinent part, provides development incentives and overrides certain local zoning regulations for developments that provide 40% workforce housing in commercial, industrial, and

mixed-use districts. Specifically, the Live Local Act amends section 166.04151, Florida Statutes, entitled "Affordable Housing," to add the following text:

> *(7)(a) A municipality must authorize multifamily and mixed use residential as allowable uses in any area zoned for commercial, industrial, or mixed use if at least 40 percent of the residential units in a proposed multifamily rental development are, for a period of at least 30 years, affordable as defined in s. 420.0004. Notwithstanding any other law, local ordinance, or regulation to the contrary, a municipality may not require a proposed multifamily development to obtain a zoning or land use change, special exception, conditional use approval, variance, or comprehensive plan amendment for the building height, zoning, and densities authorized under this subsection. For mixed-use residential projects, at least 65 percent of the total square footage must be used for residential purposes.*
>
> *(b) A municipality may not restrict the density of a proposed development authorized under this subsection below the highest allowed density on any land in the municipality where residential development is allowed.*
>
> *(c) A municipality may not restrict the height of a proposed development authorized under this subsection below the highest currently allowed height for a commercial or residential development located in its jurisdiction within 1 mile of the proposed development or 3 stories, whichever is higher.*
>
> *(d) A proposed development authorized under this subsection must be administratively approved and no further action by the governing body of the municipality is required if the development satisfies the municipality's land development regulations for multifamily developments in areas zoned for such use and is otherwise consistent with the comprehensive plan, with the exception of provisions establishing allowable densities, height, and land use. Such land development regulations include, but are not limited to, regulations relating to setbacks and parking requirements.*
>
> *(e) A municipality must consider reducing parking requirements for a proposed development authorized under this subsection if the development is located within one-half mile of a major transit stop, as defined in the municipality's land development code, and the major transit stop is accessible from the development.*
>
> *(f) A municipality that designates less than 20 percent of the land area within its jurisdiction for commercial or industrial use must authorize a proposed multifamily development as provided in this subsection in areas zoned for commercial or industrial use only if the proposed multifamily development is mixed-use residential.*

(g) Except as otherwise provided in this subsection, a development authorized under this subsection must comply with all applicable state and local laws and regulations.

For reference, section 420.0004, defines affordable as follows:

"Affordable" means that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households as indicated in subsection (9), subsection (11), subsection (12), or subsection (17).

(9) "Extremely-low-income persons" means one or more natural persons or a family whose total annual household income does not exceed 30 percent of the median annual adjusted gross income for households within the state. The Florida Housing Finance Corporation may adjust this amount annually by rule to provide that in lower income counties, extremely low income may exceed 30 percent of area median income and that in higher income counties, extremely low income may be less than 30 percent of area median income.

(11) "Low-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

(12) "Moderate-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

(17) "Very-low-income persons" means one or more natural persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

The Live Local Act allows for development to provide housing for "Moderate-income persons," which is for households with an income that is less than 120 percent of the *median annual adjusted gross income for households within the metropolitan statistical area (MSA)*. This definition is more closely related to the City of Miami Beach's definition of workforce housing, which allows for incomes up to 140 percent of the median family income.

ANALYSIS

The CCC district consists entirely of City-owned land, including the Convention Center, City Hall, the Botanical Gardens, the Holocaust Memorial, Pride Park, and the Fillmore Theater (see zoning/site map below). As noted above, on October 24, 2023, the Planning Board transmitted a proposed ordinance to the City Commission that modified the maximum height limits in the RM-3 district south of 23rd Street, as well as the CD-2 Alton Road Gateway District. The height modifications were intended to establish a 150-foot cap on maximum building heights permitted south of 23rd Street (generally the northern boundary of the Miami Beach Architectural District).

However, prior to First Reading before the City Commission, and after the Planning Board transmittal of the ordinance, it was realized that an additional amendment to the CCC district would also be needed, as this district currently permits up to 300 feet in building height for hotel uses. As such, on January 31, 2024, the City Commission referred an LDR amendment to the Planning Board to amend the height regulations in the CCC district.

The proposed ordinance amends section 7.2.17.3 of the Resiliency Code to reduce the maximum height limit for hotel uses in the CCC district from 300 feet to 150 feet. This proposal will not impact the proposed convention center hotel project, as the project previously approved by the Design Review Board, with a building height of 185 feet, remains active. The proposed amendment will ensure that if any future hotels are proposed in the CCC district, that they would be more compatible with the nearby historic districts.

RECOMMENDATION

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

Zoning/Site Map



HEIGHT REGULATIONS IN THE CCC DISTRICT

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," ARTICLE II, ENTITLED "DISTRICT REGULATIONS," AT SECTION 7.2.17, "CCC CIVIC AND CONVENTION CENTER DISTRICT," TO MODIFY THE HEIGHT LIMIT FOR HOTELS; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Miami Beach Civic and Convention Center (CCC) District is located in close proximity to the Flamingo Park, Palm View, and Museum Historic Districts as well as the Miami Beach Architectural National Register District; and

WHEREAS, the aforementioned historic districts primarily consist of low to mid-rise buildings; and

WHEREAS, the land development regulations currently allow for hotels in the CCC district to be developed with a maximum building height of 300 feet; and

WHEREAS, it is in the best interest of the City to ensure that new development in the CCC district is compatible with the development patterns within the aforementioned historic districts; 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 II, entitled "District Regulations," at Section 7.2.17, "CCC Civic and Convention Center District," is hereby amended as follows:

CHAPTER 7
ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE II. – DISTRICT REGULATIONS

* * *

7.2.17 CCC CIVIC AND CONVENTION CENTER DISTRICT

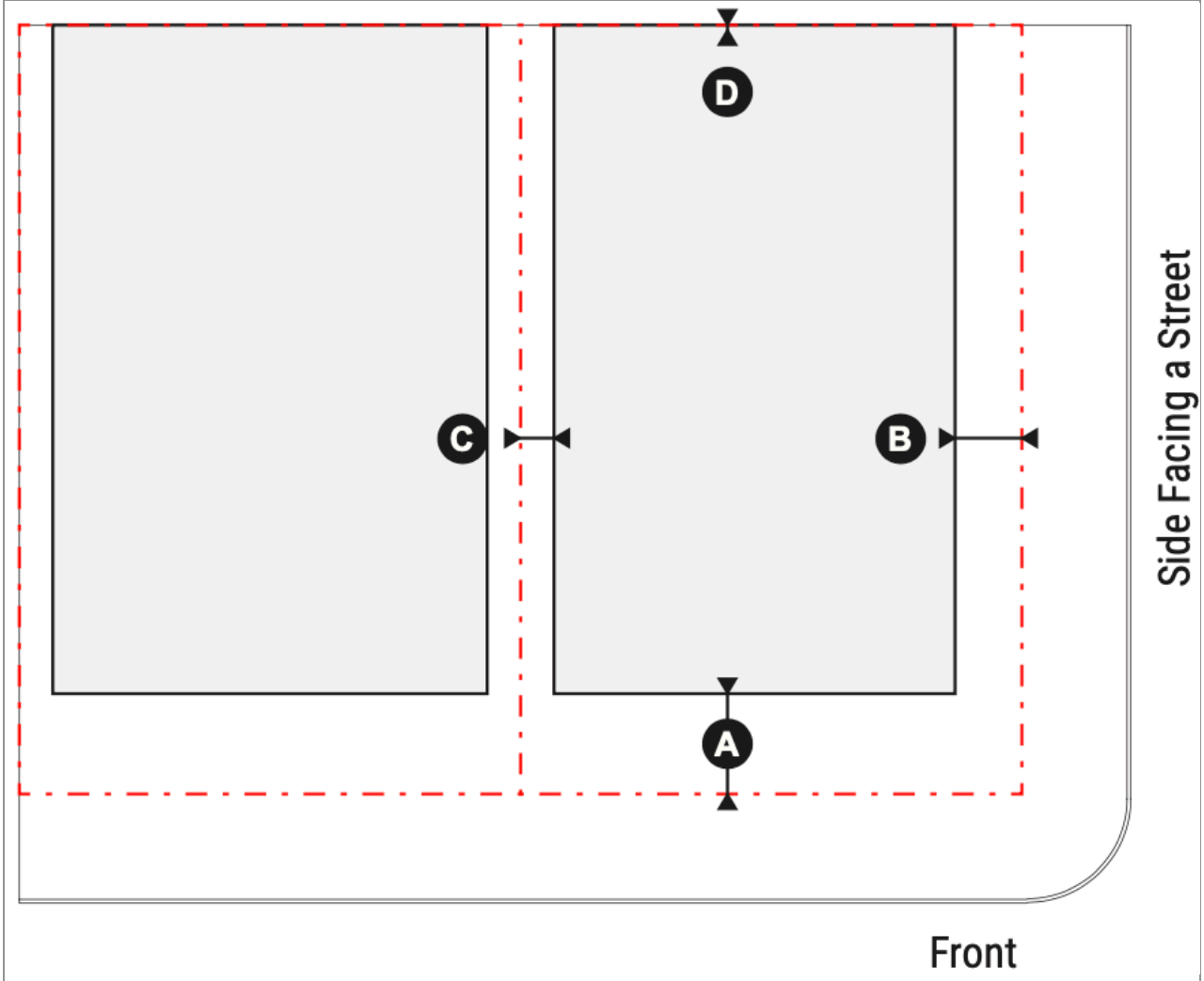
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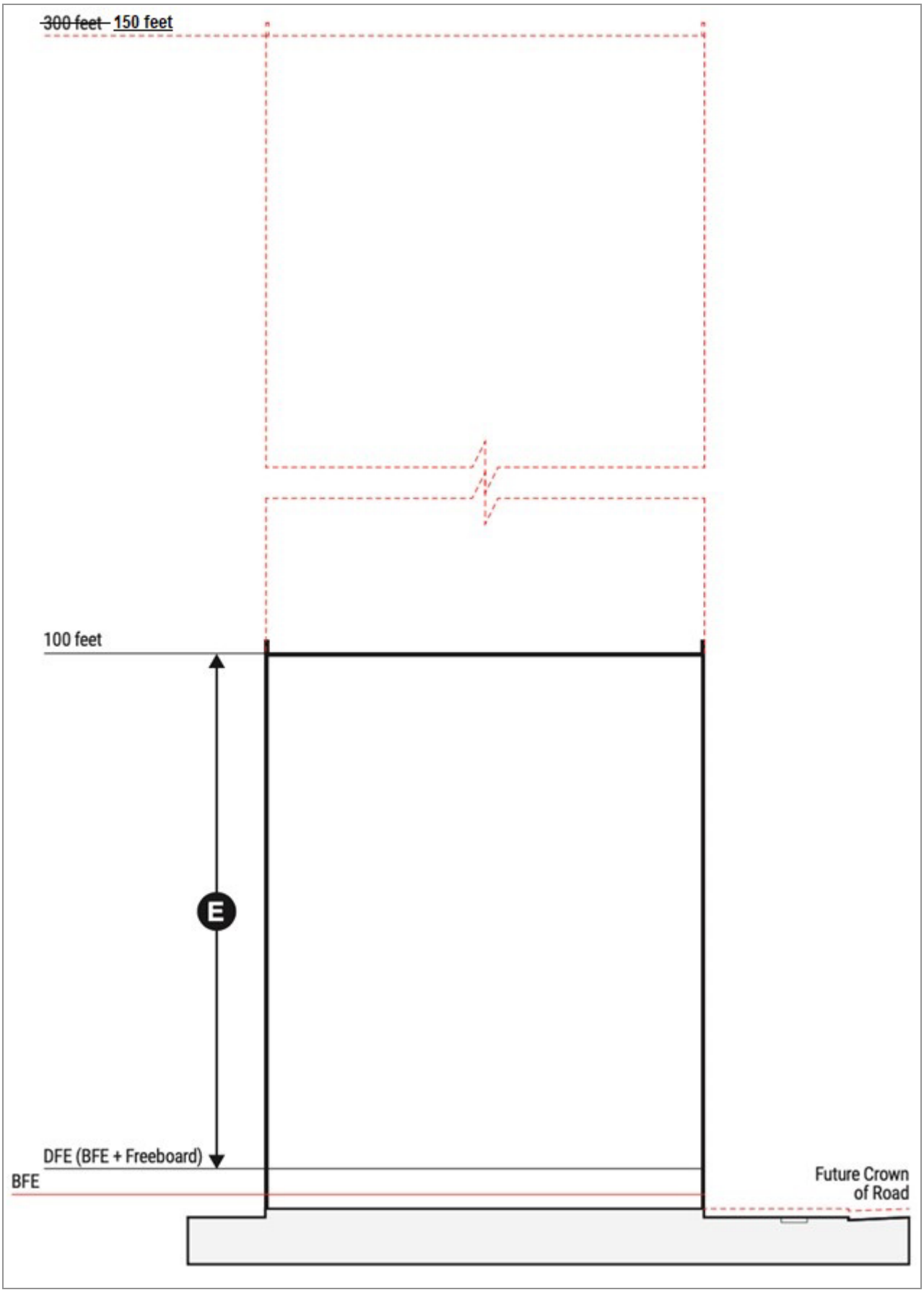
7.2.17.3 Development Regulations (CCC)

a. **The development regulations for the Civic and Convention Center District are as follows:**

DEVELOPMENT REGULATIONS TABLE (CCC)	
Maximum FAR	2.75

DEVELOPMENT REGULATIONS TABLE (CCC)	
Maximum Density (Dwelling Units Per Acre)	N/A
Minimum Unit Size (square feet)	N/A
LOT OCCUPATION	
Minimum Lot Area (square feet)	N/A
Minimum Lot Width (feet)	N/A
BUILDING SETBACKS (3)	
Front Setback Ⓐ	
Subterranean	Average of the requirements contained in the surrounding zoning districts as determined by the planning and zoning director. (2)
Pedestal	
Tower	
Front Setback Ⓐ Fronting 17th Street and Convention Center Drive	
Subterranean	10 feet at ground level 0 feet above 15 feet, as measured from DFE (1)
Pedestal	
Tower	
Side, Facing a Street, Setback Ⓑ	N/A
Side, Interior Setback Ⓒ	5 feet
Rear Setback Ⓓ	0 feet

DEVELOPMENT REGULATIONS TABLE (CCC)	
	
BUILDING HEIGHT	
Maximum Height Ⓔ	100 feet
Hotels	~~300~~150 feet


~~300 feet~~ 150 feet
100 feet
E
DFE (BFE + Freeboard)
BFE
Future Crown of Road

DEVELOPMENT REGULATIONS TABLE (CCC)
(a) Additionally, there shall be no permanent encroachments within this 10-foot setback at the ground level, including, but not limited to, columns, raised platforms, raised terraces, and raised porches. This prohibition on encroachments shall not apply to stairs and accessibility ramps, including associated hand rails.
(b) Other than the minimum setbacks set forth in the table above, the development regulations (setbacks, floor area ratio, signs, parking, etc.) shall be the average of the requirements contained in the surrounding zoning districts as determined by the planning and zoning director. Setback regulations for parking lots and garages when they are the main permitted use are listed in section 7.5.3.2.n.
(c) Balcony projections setback requirement for a hotel use: 0 feet.

SECTION 2. REPEALER.

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

SECTION 3. CODIFICATION.

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

SECTION 4. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2024

_____
Steven Meiner, Mayor

ATTEST:

_____
Rafael E. Granado, City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

_____ _____
City Attorney Date

First Reading: March 13, 2023
Second Reading: April 3, 2024

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

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