

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Planning Board

TO: Chairperson and Members  
Planning Board

DATE: May 22, 2018

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: **PB18-207. RPS Open Space Requirements**

#### **REQUEST**

**PB 18-208. RPS OPEN SPACE REGULATIONS. AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," BY AMENDING ARTICLE II, ENTITLED "DISTRICT REGULATIONS," BY AMENDING DIVISION 18, ENTITLED "PS PERFORMANCE STANDARD DISTRICT," BY MODIFYING THE OPEN SPACE REQUIREMENTS PERTAINING TO PRIVATE SPACES ACCESSIBLE BY RESIDENTS OF A BUILDING; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

#### **RECOMMENDATION**

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

#### **HISTORY/ BACKGROUND**

On March 7, 2018, at the request of Commissioner Michael Gongora, the City Commission referred a discussion item to the Land Use and Development Committee pertaining to Open Space requirements in the Performance Standards District (Item C4H). On March 14, 2018, the Land Use Committee discussed the proposal and recommended that the City Commission refer the attached draft Ordinance to the Planning Board.

On April 11, 2018, at the request of Commissioner Michael Gongora, the City Commission referred the attached Ordinance to the Planning Board (Item C4 Z).

#### **REVIEW CRITERIA**

Pursuant to Section 118-163 of the City Code, in reviewing a request for an amendment to these land development regulations, the board shall consider the following when applicable:

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

**Consistent** – The proposed ordinance is consistent with the goals, objectives, and

policies of the Comprehensive Plan.

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

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

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

The proposed ordinance amendment is not out of scale with the surrounding 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.

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 proposed ordinance is necessary to allow more flexibility in housing types, such as townhomes versus apartment buildings, by allowing open space that is provided for an individual townhome to count towards the required open space requirements for a site.

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 as the amount of open space on a site would not be reduced as viewed from neighboring properties.

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.

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

**Consistent** – The proposed ordinance will not reduce light and air to adjacent areas.

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

**area.**

**Consistent** – The proposed change should not adversely affect property values in the adjacent areas.

11. **Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.**

**Consistent** – The proposed change should not be a deterrent to the improvement or development of properties in the City.

12. **Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

**Not Consistent** – There are not any substantial reasons why the properties within this zoning district cannot be used in accordance with the existing zoning.

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** – The proposed amendment does not affect permitted uses in the district.

#### **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.

- (2) **Whether the proposal will increase the resiliency of the City with respect to sea level rise.**

**Not Applicable** – The proposal will not affect 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 does not diminish and is compatible with the City's sea level rise mitigation and resiliency efforts.

#### **ANALYSIS**

The attached Ordinance would amend Sec. 142-704 of the Land Development Regulations, regarding minimum open space ratio requirements in the Performance Standard Districts. Currently, within all RPS and CPS zoning districts, required open space may be provided within roof top and terrace areas, provided such areas are accessible by all residents. Essentially, this

precludes private terraces and roof decks from being able to be counted in required open space calculations.

The proposed amendment would permit lots in the RPS districts that are 60 feet in width or less to have private spaces accessible only by residents of individual units considered open space, despite not being generally accessible to all residents. The actual amount of required open space would not change.

**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.

TRM/MAB

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## RPS OPEN SPACE REGULATIONS

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

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH, SUBPART B, ENTITLED "LAND DEVELOPMENT REGULATIONS," BY AMENDING CHAPTER 142, ENTITLED "ZONING DISTRICTS AND REGULATIONS," BY AMENDING ARTICLE II, ENTITLED "DISTRICT REGULATIONS," BY AMENDING DIVISION 18, ENTITLED "PS PERFORMANCE STANDARD DISTRICT," BY MODIFYING THE OPEN SPACE REQUIREMENTS PERTAINING TO PRIVATE SPACES ACCESSIBLE BY RESIDENTS OF A BUILDING; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

**WHEREAS**, the Mayor and City Commission desire to amend the existing land development regulations pertaining to open space regulations in the Performance Standard Districts and

**WHEREAS**, the Mayor and City Commission desire to modify the calculation of open space for private spaces on smaller development sites; and

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

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

**SECTION 1.** Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 18, "PS Performance Standard District," is hereby amended as follows:

**Sec. 142-704. - Minimum required yards in relation to minimum open space ratio.**

(a) *Open space.*

(1) Open space ratio in the PS performance standard district refers to a percentage calculated as the area of open space, including required yards, at grade to the gross lot area of a parcel.

(2) Open space is that part of a lot in the performance standard district, including courts and yards which:

a. Is open and unobstructed from its lowest level upward;

b. Is generally accessible to all residents of the building on the lot without access restrictions, except as may be required for public safety. However, for lots in the RPS districts that are 60 feet in width or less, private spaces accessible only by residents of individual units, excluding balconies, may be considered open space despite not being generally accessible to all residents; and

c. Is not occupied by off-street parking, streets, drives, or other surfaces for vehicles. Open space is, in general, that part of a lot available for entry and use by the occupants of the building or buildings on the premises, but may include space located and treated to enhance the amenity of the development by providing landscaping, screening for the benefit of the occupants or neighboring areas, or a general appearance of openness. Open space may include water surfaces that comprise not more than ten percent of total open space, and may include landscaped roofs and decks pursuant to conditions contained in the district regulations.

(b) *Calculation.* In all cases, except as otherwise provided herein, an applicant shall comply with both minimum required yard and minimum open space requirements.

(1) The open space ratio may include open space on roof top decks which are 50 feet or less above grade. At least 25 percent of the roof top deck shall constitute living landscape material.

(2) Required yards and open space, whether at or above grade in the C-PS4 and RM-PS1 districts may also be utilized for drives and off-street parking spaces, except that if drives are ramped, they shall be at least seven and one-half feet from the front property line and not more than ten feet or one level above grade at their highest point; the total length of an elevated drive shall not exceed 40 percent of that portion of the lot facing the adjacent street.

(3) Required yards adjacent to Biscayne Bay in the C-PS4 district may be utilized for open and unenclosed decks, platforms, planters, canopies, canvas type awnings, baywalks or removable furniture such as tables and chairs. Required side yards in the C-PS4 district may have public walkways that are partially covered.

(4) Up to 50 percent of the open space required by these land development regulations may be fulfilled by payment of an in-lieu-of fee into the South Pointe Streetscape Fund. Notwithstanding the above, in no case shall the open space provided at grade be less than the total area resulting from the required setbacks. The in-lieu-of payment as described above shall be made at the rate as provided in appendix A per square foot of open space not provided. Such fee shall be paid in full at the time of application for the building permit. The fee shall be refunded if construction does not commence prior to the expiration of the building permit.

(5) No variances shall be granted from the requirements of this section, except that variances may be sought as to subsection (b)(4) above, only for major cultural institutions within local historic districts, which only achieve no more than 80 percent of the total allowable FAR and can demonstrate that the open space cannot be provided on the roof top.

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**SECTION 2. REPEALER.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 3. SEVERABILITY.**

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

**SECTION 4. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a 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 5. EFFECTIVE DATE.**

This Ordinance shall take effect ten days following adoption.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**ATTEST:**

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

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

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

First Reading: \_\_\_\_\_, 2018  
Second Reading: \_\_\_\_\_, 2018

(Sponsored by Commissioner Michael Gongora)

Underline denotes new language  
~~Strikethrough~~ denotes removed language