

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Raul J. Aguila, Interim City Manager
DATE: February 10, 2021

SUBJECT: REFERRAL TO THE PLANNING BOARD AND HISTORIC PRESERVATION BOARD - LDR AMENDMENT PERTAINING TO BUILDING HEIGHT FOR OCEANFRONT PROPERTIES IN THE ARCHITECTURAL DISTRICT.

RECOMMENDATION

The Administration recommends that the City Commission refer the attached draft Ordinance to the Historic Preservation Board and Planning Board.

BACKGROUND/HISTORY

On November 18, 2020, at the request of Commissioner Ricky Arriola, a discussion regarding the renovation of the Seagull hotel, located at 100 21st Street, was referred to the Land Use and Sustainability Committee (LUSC) and the Finance and Economic Resiliency Committee (FERC) by the City Commission (item C4J). On December 15, 2020, the LUSC discussed the proposal and continued the item to the January 2021 LUSC meeting.

On January 20, 2021 the LUSC reviewed and discussed the attached draft Ordinance prepared by representatives of the Seagull hotel and recommended that the City Commission refer the item to the Planning Board. Separately, on January 22, 2021 the FERC considered the proposed vacation of a portion of the 21st Street right-of-way immediately abutting the Seagull Hotel and recommended that that it be approved in accordance with the proffers of the owners of the Seagull hotel.

ANALYSIS

BACKGROUND

Representatives of the Seagull hotel (the "Applicant"), located at 100 21st Street, on the south side of 21st Street and along the oceanfront, are proposing a major renovation of the existing, contributing building, in order to accommodate a new hotel operator. As part of this renovation effort, the Applicant has proposed the following:

1. The vacation of the southern half of the 21st Street right-of-way (ROW) along the front of the Seagull hotel property. The effect of the vacation would be to enlarge the overall size of the development site by creating a unified development site, and therefore permit the aggregation of additional floor area (FAR) consistent with Section 1.03(c) of the City Charter and Section

118-5 of the City Code. As a condition of the proposed vacation, the Applicant would grant a perpetual, non-revocable easement in favor of the City, for the City's continued use of the ROW, so that roadway access and circulation would not be affected.

2. Amendments to the Land Development Regulations (LDRs) pertaining to the development of the site, including height requirements for roof-top and ground level additions.

PLANNING ANALYSIS

The following is a summary of the issues pertaining to the proposal:

LDR Amendments:

The Administration has met with the Applicant regarding the attached draft Ordinance, which would amend the applicable sections of the LDRs that apply to the proposed development on the site. The following summarizes current regulations, as well as the amendments proposed:

Section 142-246(d)

Oceanfront lots located within the Architectural District are currently permitted to construct ground level additions that exceed 50 feet in height, provided the addition does not exceed the height of the existing building and is not attached to the front, street side or oceanfront elevations. The proposed amendment will allow properties with no frontage on Collins Avenue to construct ground level additions at a height not to exceed the height of the existing contributing building, plus the height of any rooftop addition approved by the Historic Preservation Board, not to exceed 120 feet. Additionally, the addition can be attached to the oceanfront elevation, subject to the review and approval of the HPB.

The remainder of the amendments to this subsection are non-substantive, including clean-up edits to delete obsolete provisions specific to previous projects that never materialized. These include regulations that would have applied to the previous Seagull project and the previous South Seas project (which is now part of the Raleigh/Richmond/South Seas project).

Section 142-1161(d)

Rooftop additions are currently prohibited on oceanfront properties located within the Architectural District. The proposed amendment will allow for the construction of rooftop additions on oceanfront properties located within the Architectural District, with no frontage on Collins Avenue, in a manner that is consistent with allowable rooftop additions within the Collins Waterfront and Morris Lapidus/Mid-20th Century historic districts, subject to the review and approval by the HPB.

Vacation of 21st Street:

The proposed vacation of the southern half of the 21st Street ROW, along the front of the Seagull hotel property, has been reviewed and recommended for approval by the Finance and Economic Resiliency Committee (FERC). The vacation is scheduled for First Reading by the City Commission on February 10, 2021.

SUMMARY

The Applicant has worked closely with staff in developing the attached Ordinance, which the Administration is supportive of. The Administration recommends that the proposed Ordinance

be referred to the Planning Board. Since the development application will ultimately be reviewed by the Historic Preservation Board, the Administration also recommends that the Ordinance be referred to the Historic Preservation Board.

SUPPORTING SURVEY DATA

Improved Development Process

CONCLUSION

The Administration recommends that the City Commission refer the attached draft Ordinance to the Planning Board and Historic Preservation Board for review and recommendation.

Applicable Area

South Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-14?

Yes

Does this item utilize G.O. Bond Funds?

No

Legislative Tracking

Planning

Sponsor

Commissioner Ricky Arriola

ATTACHMENTS:

Description

▣ DRAFT REF ORD

RM3 Oceanfront Ground Floor And Rooftop Additions In The Architectural District

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," BY AMENDING DIVISION 3, "RESIDENTIAL MULTIFAMILY DISTRICTS," BY AMENDING SUBDIVISION V, "RM-3 RESIDENTIAL MULTIFAMILY HIGH INTENSITY" TO CREATE ADDITIONAL REGULATIONS REGARDING GROUND FLOOR ADDITIONS; AND ARTICLE IV "SUPPLEMENTARY DISTRICT REGULATIONS" BY AMENDING DIVISION 5 "HEIGHT REGULATIONS" TO CREATE ADDITIONAL REGULATIONS REGARDING ROOFTOP ADDITIONS FOR PROPERTIES LOCATED IN THE ARCHITECTURAL DISTRICT; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach (City) places a strong emphasis on the protection, enhancement and retention of the established architectural scale, character and context of the City's multifamily zoning districts; and

WHEREAS, the City Commission has deemed it in the best interest and welfare of the City to have procedures for the review of new construction within the City's multifamily zoning districts; and

WHEREAS, the City Commission has deemed it in the best interest and welfare of the City to have procedures to preserve, enhance and protect the unique architectural character and context of oceanfront lots within the Architectural District in Miami Beach; and

WHEREAS, the City of Miami Beach Historic Preservation Board and Planning Board have reviewed and endorsed the proposed amendment to the Code herein; and

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

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

SECTION 1. Chapter 142, "Zoning Districts and Regulations," Article II, "District Regulations," Division 3, "Residential Multifamily Districts," Subdivision V, "RM-3 Residential Multifamily High Intensity," of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 142-246. - Development regulations and area requirements.

* * *

(b) The lot area, lot width, unit size and building height requirements for the RM-3 residential

multifamily, high intensity district are as follows:

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
7,000	50	<p>New construction—550 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—400 Hotel units: 15%: 300—335 85%: 335+ For hotel structures located within the Collins Park District, generally bounded by the erosion control line on the east, the east side of Washington Avenue on the west, 23rd Street on the north, and 17th Street on the south, hotel units shall be a minimum of 200 square feet. For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration and sizes of at least 200 square feet shall be permitted. Additionally, the existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200 square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons. Hotel units within rooftop</p>	<p>New construction—800 Non-elderly and elderly low and moderate income housing—400 Workforce housing—400 Rehabilitated buildings—550 Hotel units—N/A. The number of units may not exceed the maximum density set forth in the comprehensive plan.</p>	<p>150 Oceanfront lots—200 Architectural dist.: New construction—120; ground floor additions (whether attached or detached) to existing structures on oceanfront lots—50 (except as provided in section 142-1161)</p>

		additions to contributing structures in a historic district and individually designated historic buildings—200.		
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(c) Notwithstanding the above, for oceanfront lots located within a locally designated historic district or site, but not within the architectural district, with less than 400 feet of lineal frontage along Collins Avenue and containing at least one contributing structure, the maximum building height for ground floor additions to existing structures, whether attached or detached, shall be as follows:

- (1) For existing structures greater than five stories in height, the maximum height shall be limited to ten stories or the height of the roof line of the main structure on site, whichever is less. At the discretion of the historic preservation board, the maximum height of the ground floor addition may exceed ten stories if the existing and surrounding structures are greater than five stories in height, provided the addition is consistent with the scale and massing of the existing structure.
- (2) For existing structures five stories or less in height, the maximum height shall be limited to five stories.

Additionally, the proposed addition shall not substantially reduce existing or established view corridors, nor impede the appearance or visibility of architecturally significant portions of an existing structure, as determined by the historic preservation board.

(d) Notwithstanding the above, for oceanfront lots with no frontage on Collins Avenue located in the architectural district, the overall height of an attached ground floor additions may exceed five stories and 50 feet, but shall not exceed the height of the roof line of the structure attached to, provided all of existing contributing structure plus the height of any rooftop addition approved by the historic preservation board in accordance with 142-1161(d)(5), up to a maximum height of 120 feet, if the following conditions are satisfied:

- ~~(1) The proposed addition shall consist of the expansion of existing hotel units only and shall not result in an increased number of units.~~
- ~~(2) The proposed additions shall be for hotel units only. A restrictive covenant, running with the land, or other similar instrument enforceable against the owner(s), acceptable to and approved as to form by the city attorney, shall be required to ensure that the units remain as hotel units for a minimum of 30 years. If the applicant is unable to provide such a covenant, this requirement may be waived by the city manager if it is demonstrated that the project provides an extraordinary public benefit to the surrounding area.~~
- (1) The proposed addition shall not be attached to front, or street side ~~or oceanfront~~ elevations, nor along any other principal elevations or facades, as determined by the historic preservation board.
- (2) The proposed additions shall not substantially reduce existing or established view corridors, nor impede the appearance or visibility of architecturally significant portions of an existing structure, as determined by the historic preservation board.

~~(e) A ground floor addition relocating existing hotel units shall also meet the following conditions,~~

in addition to subsection ~~(d)(2)~~—(4) above:

- ~~(1) There shall be no neighborhood impact establishment, dancehall or entertainment use in the area of the proposed addition;~~
- ~~(2) No new outdoor or open air entertainment establishment shall be created on the property. Outdoor or open air entertainment establishments existing as of the effective date of this subsection (November 24, 2012) may continue but shall not be expanded if a property avails itself of this provision.~~
- ~~(3) Upon approval of the proposed addition by the historic preservation board, no building greater than two stories or 25 feet in height shall be constructed between the rear of the building and westward line of the dune overlay district. This provision shall not be subject to variance.~~
- ~~(4) Notwithstanding the provisions in subsection 142-1161(d), if the building presently contains unoccupied but built spaces enclosed on at least three sides by existing walls of a height that would conceal a new roof, such as false parapets or storage rooms, those spaces may be further enclosed as habitable floor area, up to the permitted floor area; and~~
- ~~(5) No new commercial uses shall be permitted on the rooftop or any open air decks of the existing structure or proposed addition.~~

~~(f)~~(e) Notwithstanding the above, for oceanfront lots located in the architectural district, with a lot area greater than 115,000 square feet, a ground floor addition, whether attached or detached, may exceed 50 feet in height, but shall not exceed 200 feet in height, in accordance with the following provisions:

- (1) Placement of the structure. The ground floor addition shall be located internal to the site, and shall be set back a minimum of 100 feet from the front property line, 75 feet from the street side property lines, and 100 feet from the rear (oceanfront) property line.
- (2) Limits on the floorplate of additions exceeding 50 feet in height. The maximum floor plate size for the portion of an addition that exceeds 50 feet in building height is 15,000 square feet per floor, excluding projecting balconies. The historic preservation board may approve an increase in this overall floor plate, up to a maximum of 20,000 square feet per floor, excluding balconies, in accordance with the certificate of appropriateness criteria in chapter 118, article X of these land development regulations.

SECTION 2. Chapter 142, "Zoning Districts and Regulations," Article IV "Supplementary District Regulations" Division 5 "Height Regulations" of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

DIVISION 5. - HEIGHT REGULATIONS

Sec. 142-1161. - Height regulation exceptions.

For all districts, except RS-1, 2, 3 and 4 (single-family residential districts).

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(d) Rooftop additions.

- (1) *Restrictions.* There shall be no rooftop additions to existing structures in the following areas: oceanfront lots ~~within~~with frontage on Collins Avenue in the Miami

Beach Architectural District in the RM-3 or ~~CD-3~~ zoning districts; non-oceanfront lots fronting Ocean Drive in the MXE zoning district. No variance from this provision shall be granted.

- (2) *Additional regulations.* Existing structures within an historic district shall only be permitted to have habitable one-story rooftop additions (whether attached or detached), with a maximum floor to ceiling height of 12 feet except as hereinafter provided. No variance from this provision shall be granted. The additions shall not be visible when viewed at eye level (5'—6" from grade) from the opposite side of the adjacent right-of-way; for corner properties, said additions shall also not be visible when viewed at eye level from the diagonal corner at the opposite side of the right-of-way and from the opposite side of the side street right-of-way. Notwithstanding the foregoing, the line-of-sight requirement and maximum ceiling height may be modified as deemed appropriate by the historic preservation board based upon the following criteria: (i) the addition enhances the architectural contextual balance of the surrounding area; (ii) the addition is appropriate to the scale and architecture of the existing building; (iii) the addition maintains the architectural character of the existing building in an appropriate manner; and (iv) the addition minimizes the impact of existing mechanical equipment or other rooftop elements.
- (3) *Lincoln Road hotel additions.* Notwithstanding the foregoing, a multistory rooftop addition, for hotel uses only, may be permitted for properties on Lincoln Road, located between Pennsylvania Avenue and Lenox Avenue, in accordance with the following provisions:
 - a. For properties on the north side of Lincoln Road, a multistory rooftop addition shall be set back at least 75 feet from Lincoln Road and at least 25 feet from any adjacent side street. Additionally, the multistory addition may be cantilevered over a contributing building.
 - b. For properties located on the south side of Lincoln Road, a multistory rooftop addition shall be set back at least 65 feet from Lincoln Road.
 - c. The portion of Lincoln Lane abutting the subject property, as well as the remaining portion of Lincoln Lane from block-end to block-end, shall be fully improved subject to the review and approval of the public works department.
 - d. Participation in the public benefits program, pursuant to subsection 142-337(d), shall be required in order for a hotel project to avail itself of a multistory rooftop addition.
 - e. There shall be a limit of 500 hotel units for hotel projects including a multistory rooftop addition that are constructed between Pennsylvania Avenue and Lenox Avenue.
- (4) *[Placement and manner of attachment.]* The placement and manner of attachment of all additions (including those which are adjacent to existing structures) are subject to historic preservation board approval.
- (5) *Collins Waterfront Historic District, ~~and~~ Morris Lapidus/Mid-20th Century Historic District and oceanfront lots with no frontage on Collins Avenue within the Miami Beach Architectural District in the RM-3 zoning district.* Notwithstanding the foregoing provisions of subsection 142-1161(d)(2), certain types of existing

structures located within the Collins Waterfront Historic District and Morris Lapidus/Mid-20th Century Historic District and oceanfront lots with no frontage on Collins Avenue within the Miami Beach Architectural District may be permitted to have habitable rooftop additions (whether attached or detached) according to the following requirements:

a. Height of rooftop additions permitted for structures of five stories or less:

1. Existing buildings of five or less stories may not have more than a one story rooftop addition, in accordance with the provisions of subsection 142-1161(d)(2). Additionally, at the discretion of the historic preservation board, pursuant to certificate of appropriateness criteria, the maximum floor to ceiling height may be increased to 15 feet within the Morris Lapidus/Mid-20th Century Historic District.

b. Height of rooftop additions permitted for hotel structures of greater than five stories:

1. For those structures determined to be eligible by the historic preservation board for rooftop additions of greater than one story in height according to the provisions of subsection ~~6~~ (7) below, one story is allowed per every three stories of the existing building on which the addition is to be placed, to a maximum of four additional rooftop addition stories, with a maximum floor to floor height of 12 feet, and a maximum floor to roof deck height of 12 feet at the highest new story. The additional stories shall only be placed on the underlying structure creating the eligibility for an addition. Additionally, at the discretion of the historic preservation board, pursuant to certificate of appropriateness criteria, the maximum floor to ceiling height may be increased to 15 feet within the Morris Lapidus/Mid-20th Century Historic District, and on oceanfront lots with no frontage on Collins Avenue within the Miami Beach Architectural District for up to two floors of a permitted roof-top addition.
2. Rooftop additions permitted under this subsection, which are greater than one story, shall be for the sole purpose of hotel unit development. A restrictive covenant in a form acceptable to the city attorney committing the property to such hotel use, subject to release by the historic preservation board when such board determines that the restriction is no longer necessary, shall be recorded prior to the issuance of any building permit for a rooftop addition greater than one story.

(6) *North Beach Resort Historic District.* Notwithstanding the foregoing provisions of subsection 142-1161(d)(2), existing structures located within the North Beach Resort historic district may be permitted to have habitable rooftop additions (whether attached or detached) according to the following requirements:

- a. Existing buildings of five or less stories may not have more than a one story rooftop addition, in accordance with the provisions of subsection 142-1161(d)(2).
- b. For those structure determined to be eligible by the historic preservation board for rooftop additions of greater than one story in height, according to the provisions of subsection (7) ~~(5)~~ below, existing buildings six or more stories may have a two story rooftop addition with a maximum floor to floor height of

12 feet, and a maximum floor to roof deck height of 12 feet at the highest new story. The additional stories shall only be placed on that portion of the underlying structure creating the eligibility for an addition.

- (7) *Design and appropriateness guidelines.* In determining if existing structures are eligible for rooftop additions, the historic preservation board, in addition to any and all other applicable criteria and guidelines contained in these land development regulations, shall consider whether:
- a. The design of an existing structure (or part thereof) to which a new rooftop addition is to be attached is of such nature or style that it does not contain any significant original architectural crown element(s) or other designed composition of significant architectural features, nor does the overall profile of the structure including its rooftop design features have a distinctive quality that contributes to the special character of the historic district, as determined by the historic preservation board. Significant rooftop or upper facade elements or features may include but shall not be limited to towers, domes, crowns, ziggurats, masts, crests, cornices, friezes, finials, clocks, lanterns, original signage and other original architectural features as may be discovered.
 - b. The proposed rooftop addition shall be designed, placed and attached to an existing structure in a manner that:
 1. Does not obscure, detract from, or otherwise adversely impact upon other significant architectural features of the existing structure, inclusive of significant features that are to be, or should be, restored or reconstructed in the future;
 2. maintains the architectural contextual balance of the surrounding area and does not adversely impact upon or detract from the surrounding historic district;
 3. Is appropriate to the scale and architecture of the existing building;
 4. Maintains the architectural character of the existing building in an appropriate manner;
 5. Does not require major demolition and alterations to existing structural systems in such manner as would compromise the architectural character and integrity of the existing structure; and
 6. Minimizes the impact of existing mechanical equipment or other rooftop elements.
 - c. The placement and manner of attachment of additions (including those which are adjacent to existing structures) are subject to the historic preservation board granting a certificate of appropriateness for any demolition that may be required as well as for the new construction.
 - d. The entire structure shall be substantially rehabilitated.
 - e. Notwithstanding the foregoing, the overall height of any structure located in the Collins Waterfront Historic District or the North Beach Resort Historic District may not exceed the height limitations of the underlying zoning district. No additional stories may be added under this section through height variances from the underlying zoning district regulations.

- f. No variance from the provisions of subject subsection 142-1161(d) shall be granted.

SECTION 3. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 4. REPEALER.

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

SECTION 5. SEVERABILITY.

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

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this ____ day of _____, 2021.

Dan Gelber, Mayor

ATTEST:

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

Rafael E. Granado, City Clerk

City Attorney

Date

First Reading: April 21, 2021

Second Reading: May 12, 2021

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

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