

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Eric Carpenter, City Manager  
DATE: November 20, 2024 10:30 a.m. Second Reading Public Hearing  
TITLE: R-PS4 HEIGHT INCENTIVE FOR CONVERSION FROM HOTEL TO RESIDENTIAL USE

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH, AT CHAPTER 7, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," AT DIVISION 15, "PERFORMANCE STANDARD DISTRICT (PS)," SECTION 7.2.15.2, "RESIDENTIAL PERFORMANCE STANDARD DISTRICTS (R-PS)," TO PROVIDE HEIGHT INCENTIVES TO ENCOURAGE THE REDEVELOPMENT OF HOTELS ON PROPERTIES ZONED R-PS4 INTO RESIDENTIAL STRUCTURES BY PROVIDING SUCH PROPERTIES WITH A HEIGHT BONUS IF THE APPLICANT VOLUNTARILY COVENANTS THAT NO TRANSIENT USES OR SHORT-TERM RENTALS SHALL BE PERMITTED ON THE PROPERTY; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

### **RECOMMENDATION**

The Administration recommends that the Mayor and City Commission ("City Commission") adopt the subject ordinance.

### **BACKGROUND/HISTORY**

On July 20, 2022, the City Commission adopted Resolution 2022-32255, placing a ballot question regarding a floor area ratio ("FAR") incentive to convert existing hotels into residential use in the R-PS4 district on the November 8, 2022 general election ballot. On November 8, 2022, the ballot measure was approved by 65.66% of the voters.

Consistent with this voter approved initiative, on May 17, 2023, the City Commission adopted Ordinance No. 2023-4555, codified as section 7.2.15.2(f)(4) in the Land Development Regulations of the City Code (LDRs). This ordinance provides an FAR incentive for existing hotel properties in the R-PS4 district that voluntarily convert to a residential use to have a maximum FAR of 2.75, whereas the prior maximum FAR was 2.0.

On May 6, 2024, Komar Investments, LLC ("Applicant"), owner of the Marriott Stanton South Beach Hotel, located at 161 Ocean Drive, filed an application to amend Section 7.2.15.2(f)(4) of the LDRs to include a height incentive for the conversion of a hotel to residential, within the R-PS4 zoning district.

### **ANALYSIS**

The purpose of the proposed amendment is to further incentivize the conversion of hotels within the RPS-4 zoning district, such as the Marriott Stanton, located at 161 Ocean Drive, to non-transient residential. The replacement of a hotel with a non-transient residential use would reduce the impact of transient hotel uses in the South of Fifth neighborhood.

As noted herein, the LDRs were previously amended to allow existing hotel properties in the R-PS4 district that voluntarily convert to a residential use to have a maximum FAR of 2.75, where previously the maximum FAR was 2.0. The main use of the building is required to remain residential, with allowable accessory uses, in perpetuity.

The R-PS4 district includes those properties south of Fifth street, east of Ocean Drive (see attached aerial map). The current regulations that allow for an increase in FAR apply to properties with a main use of hotel as of January 1, 2022, subject to the property owner's strict compliance 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 uses 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, 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 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.
4. Any existing contributing building shall be retained in a manner reviewed and approved by the Historic Preservation Board.
5. There shall be no variances from these provisions.

In addition to the Marriott Stanton, there are two other properties that have hotels in the R-PS4 district that could potentially take advantage of the proposed height incentive. These are the Hilton Bentley Miami/South Beach located at 101 Ocean Drive and the Savoy Hotel & Beach Club located at 425 Ocean Drive (see attached aerial map).

The maximum building height in the R-PS4 district is currently 100 feet for oceanfront lots and the proposed ordinance would increase the maximum building height to 145 feet for properties that convert from a hotel use to a non-transient residential use. To take advantage of the FAR incentives, as well as the proposed height increase, any existing contributing building must be retained in a manner to be reviewed and approved by the Historic Preservation Board. The Applicant is proposing to retain and restore the entirety of the existing 2-story contributing building on the 161 Ocean Drive property.

The Applicant has indicated that due to the increased pedestal setbacks contemplated for the future project, the additional, incentivized FAR cannot be constructed on the property without an increase in building height. It should be noted that the R-PS4 district has reduced pedestal setbacks when compared to other oceanfront zoning districts, such as the RM-3, Residential Multifamily High Intensity zoning district, where a maximum FAR of 3.0 is allowed along with a maximum height of 200 feet. In this regard, the minimum required pedestal side setbacks in the R-PS4 district are as little as five (5) feet, which may not be adequate for larger residential projects. The proposed ordinance includes increased minimum required pedestal side setbacks, to ensure that the additional building height is properly distributed.

Attached are illustrations of a preliminary site, floor plan and design concept, provided by the

Applicant. Planning staff has not formally reviewed the proposed concept, nor provided design comments regarding the preliminary concepts proposed. However, significant changes will likely be recommended, especially as it relates to the automobile dominated circulation and lack of pedestrian street presence in the proposed concept renderings.

In conclusion, the previously approved increase in FAR from 2.0 to 2.75 represents a 38% increase in allowable square footage for eligible sites. Considering this increase, the Administration believes that additional building height is warranted, to provide more flexibility in the design for a residential project. The proposed height increase from 100 feet to 145 feet is proportional to the additional square footage allowed and would be subject to the review and approval of the Historic Preservation Board.

### **PLANNING BOARD REVIEW**

On July 24, 2024, the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with a favorable recommendation (5-1).

### **UPDATE**

On September 11, 2024, the proposed ordinance was discussed at First Reading and deferred to the October 30, 2024 City Commission meeting. Additionally, direction was given for the Administration to host an in-person meeting in the South of Fifth neighborhood, for additional stakeholder feedback. This in person meeting was held on October 14, 2024, and additional feedback was provided by area residents.

On October 30, 2024 the City Commission approved the ordinance at First Reading, subject to the following additional requirements:

1. An eligible property shall obtain a certificate of appropriates from the Historic Preservation Board, for the allowable incentives, no later than December 31, 2027.
2. A corresponding full building permit shall be issued no later than June 30, 2030.

These requirements have been incorporated into the revised ordinance for Second Reading. Additionally, pursuant to Section 2.3.2 of the LDRs, the City Commission waived the annual zoning cycle requirements and scheduled Second Reading for November 20, 2024.

### **FISCAL IMPACT STATEMENT**

No Fiscal Impact Expected

**Does this Ordinance require a Business Impact Estimate?** Yes  
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on: 11/5/2024.  
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

### **FINANCIAL INFORMATION**

N/A

### **CONCLUSION**

The Administration recommends that the City Commission adopt the subject ordinance.

**Applicable Area**

South Beach

**Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?**

Yes

**Is this item related to a G.O. Bond Project?**

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying?** No

If so, specify the name of lobbyist(s) and principal(s):

**Department**

Planning

**Sponsor(s)**

Private Applicant

**Co-sponsor(s)**

Commissioner David Suarez  
Commissioner Alex Fernandez

**Condensed Title**

10:30 a.m. 2nd Rdg, R-PS4 Height Incentive for Conversion from Hotel to Residential Use.  
(Private Applicant/DS/AF) PL 5/7