



COMMISSION MEMORANDUM

TO: Honorable Mayor and Member of the City Council

FROM: Interim City Manager Rickelle Williams

DATE: July 24, 2024 First Reading

TITLE: RESIDENTIAL USE INCENTIVES - COMPREHENSIVE PLAN AMENDMENT
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 FAR INCENTIVES TO ENCOURAGE THE CONVERSION OF LEGALLY ESTABLISHED TRANSIENT USES TO RESIDENTIAL USES IN THE "WEST AVENUE BAYFRONT OVERLAY"; BY AMENDING POLICY RLU 1.1.6 ENTITLED "MEDIUM DENSITY MULTI FAMILY RESIDENTIAL (RM-2)," TO PROVIDE FAR 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 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 FAR 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 FAR INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO RESIDENTIAL USES; BY AMENDING OBJECTIVE 1.2, ENTITLED "LAND USE REGULATION," TO ESTABLISH POLICY 1.2.8, ENTITLED "RESIDENTIAL USE INCENTIVES," TO PROVIDE MINIMUM STANDARDS FOR OBTAINING THE FAR INCENTIVES SET FORTH IN THIS ORDINANCE; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, TRANSMITTAL AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the City Commission approve the subject ordinance at First Reading and schedule a Second Reading public hearing for October 30, 2024.

BACKGROUND/HISTORY

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). On January 30, 2024, the Planning Board held a public hearing and transmitted the proposed ordinance, as well as a companion amendment to the LDR's, to the City Commission with a favorable recommendation (4-1) and subject to the following additional recommendations:

1. Describe how the City determined the affected districts and areas for the proposed incentives.
2. Detail if the proposed incentives are sufficient to achieve the ordinance's intended goals.
3. Mandate that a significant portion of developments utilizing the incentives be dedicated to workforce or affordable housing.
4. Analyze the impacts of the proposed increases in FAR on surrounding areas.
5. Remove the proposed accessory use incentives from the RM-2 in the West Avenue Overlay.
6. Reach out to existing hotels and transient uses to determine what incentives would encourage them to forgo these uses.

On January 31, 2024, the City Commission adopted Ordinance No. 2024-4582, which established a process for LDR amendments that increase floor area ratio (FAR). Since the proposed ordinance includes an increase in FAR, it was determined that it must go back to the Planning Board for a new review pursuant to the requirements of Ordinance No. 2024-4582.

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:

7. An increase in maximum allowable floor area ratio (FAR).
8. An increase in maximum allowable building height.
9. Modifications to minimum parking requirements.
10. 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 attached Comprehensive Plan amendment is a companion ordinance to a separate LDR amendment, and authorizes FAR increases within the RM-1, RM-2, RM-3, and R-PS4 future land use categories. The amendment also provides that the incentives established in the LDR amendment to permit increased FAR are only available by voluntarily agreeing to the requirements of the Residential Use Incentives through a new policy 1.2.8.

The purpose of the proposal is to encourage property owners to voluntarily provide permanent residential uses instead of temporary lodging or other transient uses, including short-term rentals. The proposal 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.

COMPREHENSIVE PLAN AMENDMENT REVIEW PROCESS

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.

FAR INCREASE PROCESS

Per section 7.1.10 of the LDRs, amendments that increase the allowable floor area and FAR must undergo the following review process:

- Step 1 – Planning Board Preliminary Review
- Step 2 – Community Outreach Meeting
- Step 3 – Planning Board Transmittal
- Step 4 – City Commission First Reading Public Hearing
- Step 5 – Community Workshop
- Step 6 – City Commission Second Reading/Adoption Public Hearing

PLANNING BOARD REVIEW

On March 26, 2024, the Board held a preliminary review of the proposed ordinance and continued the item to the May 28, 2024, meeting. Following this preliminary review meeting City staff held a public meeting on May 8, 2024, via Zoom, for all affected stakeholders, to solicit additional input and feedback. The following is a link to the meeting: <https://youtu.be/5VXsHLEqd3w>.

On May 28, 2024, the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with a favorable recommendation (6-0). By separate motion (6-0) the Planning Board also recommended the following:

1. The City Commission consider extending the proposed incentives to other applicable areas of the City.

2. The City Commission continue to explore and develop additional incentives for non-transient residential uses.

APPLICATION FEE WAIVER

The subject amendment is proposed on a comprehensive, citywide basis, and not on behalf of a private applicant or third party. Pursuant to section 2.4.1.c of the Land Development Regulations of the City Code, amendments to the City Code require the payment of the applicable fees in section 2.2.3.5, 2.2.3.6, and appendix A to the City Code. These fees may be waived by a five-sevenths (5/7ths) vote of the City Commission, based upon one or more of the following circumstances:

1. The City Commission determines that the proposed amendment is necessary due to a change in federal or state law, or to implement best practices in urban planning, or based on circumstances unique to the proposed amendment.
2. Upon the written recommendation of the City Manager acknowledging a documented financial hardship of a property owner(s) or developer(s).
3. If requested, in writing, by a non-profit organization, neighborhood association, or homeowner's association for property owned by any such organization or association, so long as the request demonstrates that a public purpose is achieved by enacting the applicable amendment.

The Administration recommends that the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

UPDATE

The subject ordinance was placed on the June 26, 2024 City Commission agenda, but the item was not reached.

FISCAL IMPACT STATEMENT

No Fiscal Impact Expected

Does this Ordinance require a Business Impact Estimate? No
(FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on . See BIE at:
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

CONCLUSION

The Administration recommends the following:

1. The City Commission approve the subject ordinance at First Reading and schedule a Second Reading public hearing for October 30, 2024.
2. In accordance with section 2.4.1.c.1 of the Land Development Regulations of the City Code, the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

Applicable Area

Citywide

**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)

Commissioner Laura Dominguez

Co-sponsor(s)

Commissioner David Suarez
Commissioner Joseph Magazine