

R5 O 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.

Applicable Area:

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-notices/>

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

Aerial



0 125 250 500 Feet



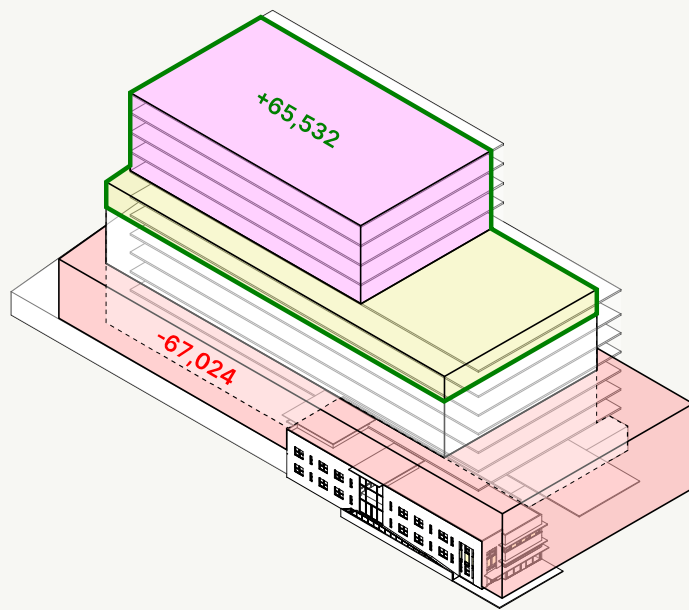
Location:
R-PS4 District with Transient Uses

KEY
INTERNATIONAL

Olson Kundig







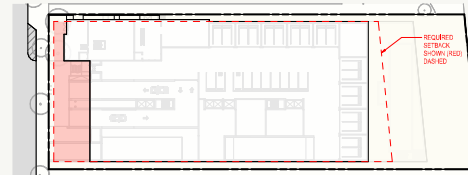
RED AREA = BUILDABLE AREA (FAR) LOST TO VOLUNTARY SETBACKS
MAGENTA AREA = BUILDING AREA (FAR) REQUESTED ABOVE HEIGHT OF EXISTING STANTON HOTEL
YELLOW AREA = BUILDING AREA (FAR) BELOW HEIGHT OF EXISTING STANTON HOTEL BUT ABOVE CURRENT ZONING HEIGHT LIMITATION

BUILDABLE AREA (FAR) LOST TO VOLUNTARY SETBACKS

-67,024 SF

BUILDING AREA (FAR) REQUESTED ABOVE HEIGHT CURRENT ZONING HEIGHT LIMITATION

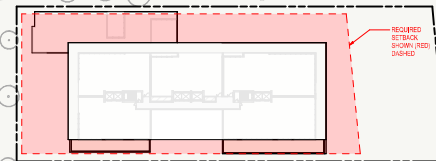
+65,532 SF



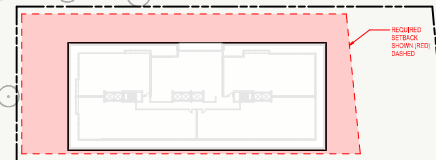
Setback Diagram - L01



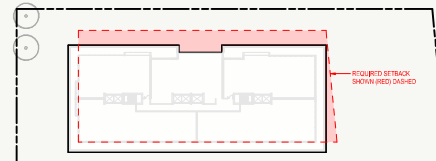
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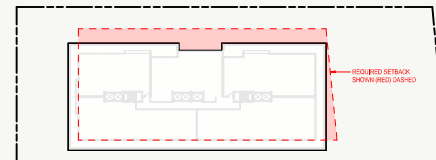
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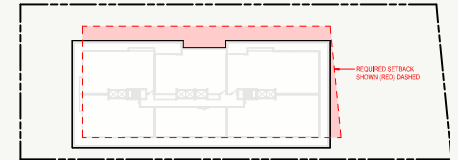
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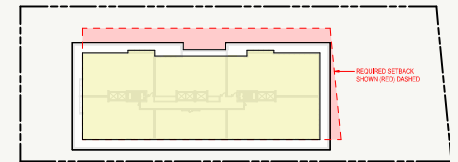
Setback Diagram - L05



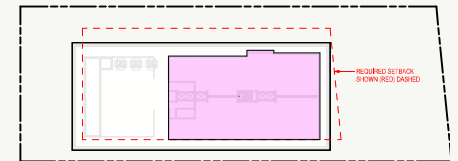
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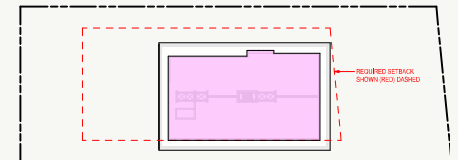
Setback Diagram - L07



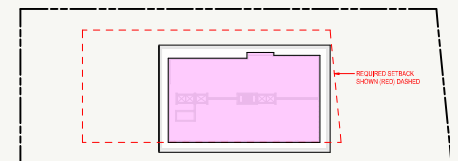
Setback Diagram - L08



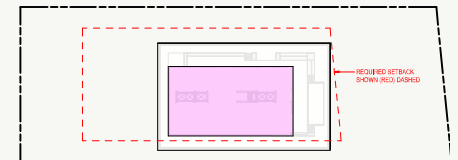
Setback Diagram - L09



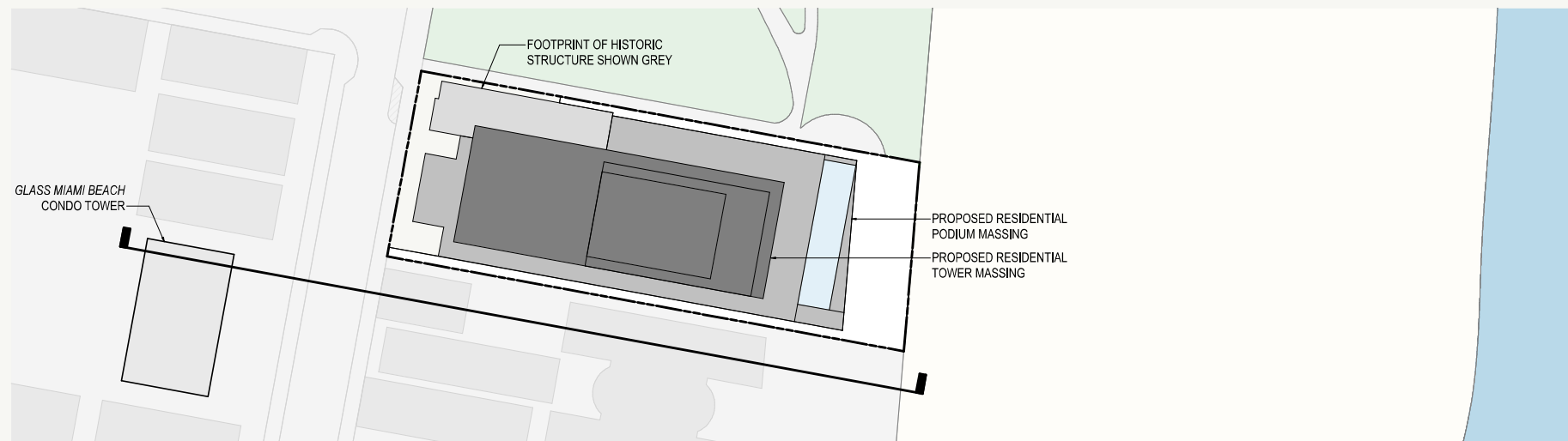
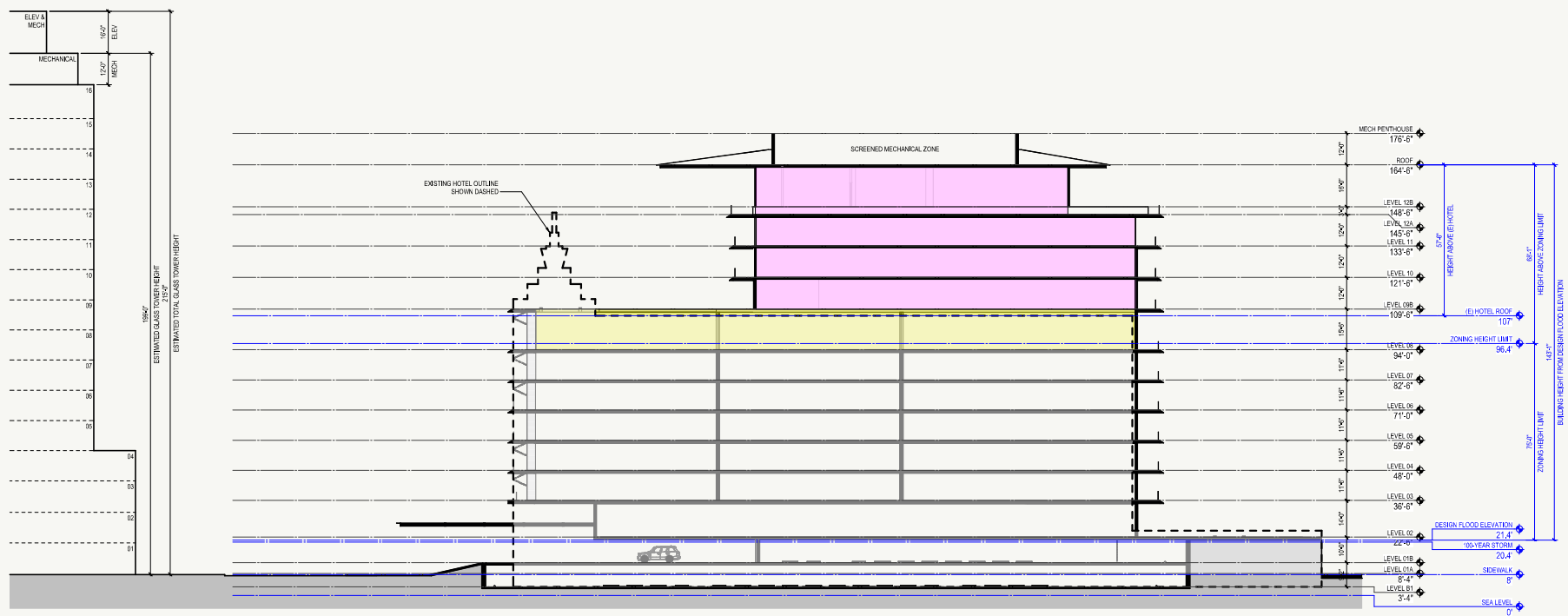
Setback Diagram - L10

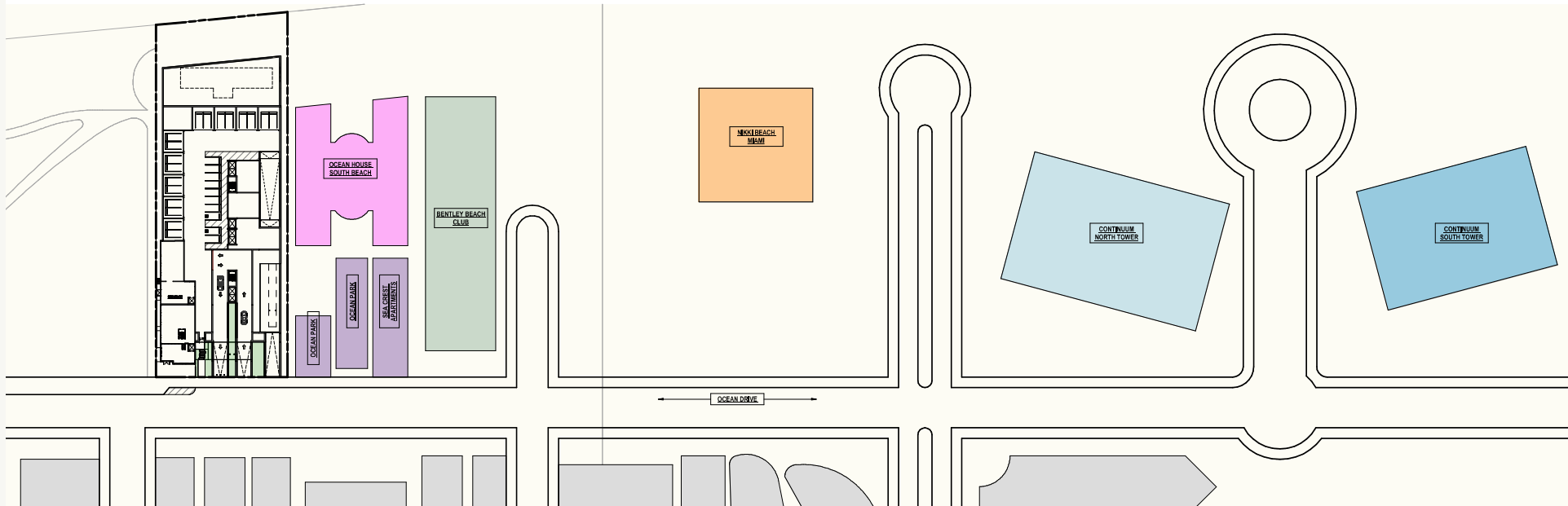
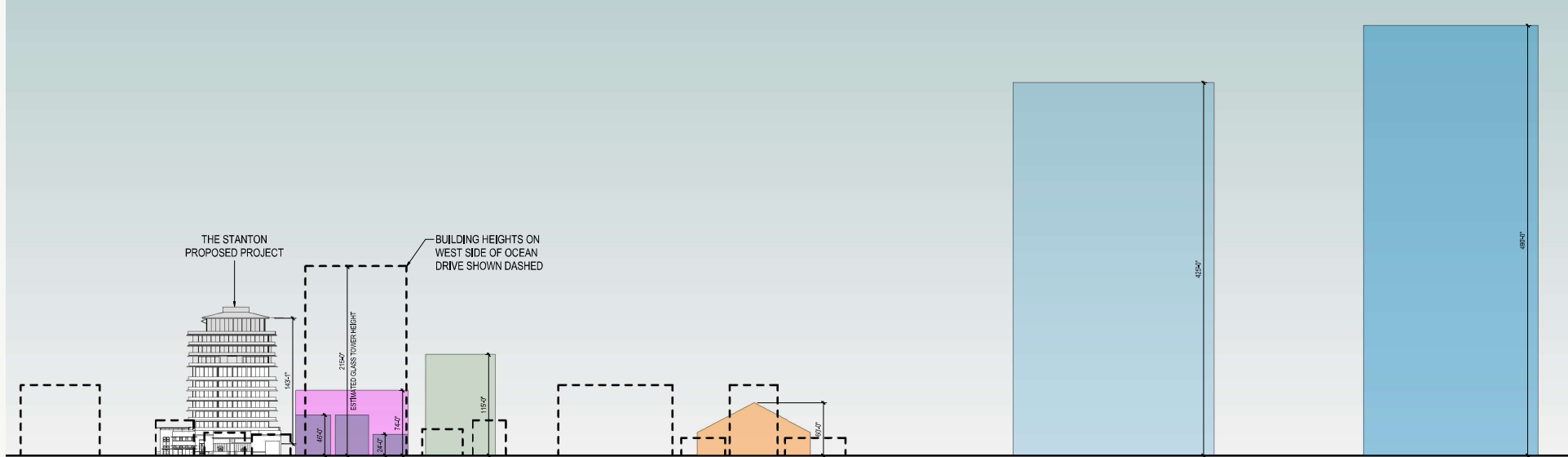


Setback Diagram - L11



Setback Diagram - L12





R-PS4 Height Incentive for Conversion from Hotel to Residential Use

ORDINANCE NO. _____

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.

WHEREAS, the predominant zoning classification for the South of Fifth neighborhood is RPS, Residential Performance Standard Zoning, which is designed to encourage primarily residential uses, except for limited commercial zoning along the perimeter of the neighborhood; and

WHEREAS, the South of Fifth Neighborhood has developed over the past 30 years as an attractive pedestrian-friendly residential neighborhood; and

WHEREAS, in recent years, the increase in transient uses has adversely impacted residents' quality of life in the neighborhood; and

WHEREAS, the South of Fifth residential community wishes to transition existing hotel uses to residential uses to minimize impacts of transient uses on the community; and

WHEREAS, on November 8, 2022, and pursuant to Resolution No. 2022-32255, over 65 percent of City voters approved the .75 FAR incentive for the residential conversion of redevelopment of existing hotels, which is currently codified in section 7.2.15.2 (f) of the Resiliency Code; and

WHEREAS, the intent of the codified FAR incentive is to encourage existing hotels and transient uses in the R-PS4 zoning district to transition to residential uses that are compatible with the South of Fifth Neighborhood; and

WHEREAS, the existing FAR incentive is practically unusable on qualifying properties because of existing historic buildings and setback regulations; and

WHEREAS, to fully implement the FAR incentive and fulfill its intended purpose of incentivizing owners of transient uses to transition to residential uses, additional height is needed to accommodate the extra floor area; 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, "Zoning Districts and Regulations," Article II, "District Regulations," Division 15, "Performance Standard District (PS)," of the Resiliency Code of the City of Miami Beach is hereby amended as follows:

**CHAPTER 7
ZONING DISTRICTS AND REGULATIONS**

* * *

ARTICLE II. DISTRICT REGULATIONS

* * *

7.2.15 PERFORMANCE STANDARD DISTRICT (PS)

* * *

7.2.15.2 Residential Performance Standards Districts

* * *

f. Residential Performance Standard Area Requirements (R-PS)

The development standards for residential performance standard districts are as follows:

* * *

BUILDING SETBACKS				
Front Setback (feet) Ⓐ	R-PS1	R-PS2	R-PS3	R-PS4
Subterranean	5 feet			
Pedestal	5 feet (1) (2)			
Tower	50 feet			60 feet – within the Ocean Beach Historic District (however, for residential apartment structures seeking approval under section 7.2.15.2.f.3 below, the tower setback shall be determined by the historic preservation board.) (3)
Side, Facing a Street Setback (feet) Ⓑ	R-PS1	R-PS2	R-PS3	R-PS4
Subterranean	5 feet			
Pedestal	5 feet (1)			
Tower	The required pedestal setback plus 10% the height of the building. (3)			
Side, Interior Setback (feet) Ⓒ	R-PS1	R-PS2	R-PS3	R-PS4
Subterranean				

Pedestal	7.5 feet - except when (4) below applies. 5 feet - Lots 50 feet wide or less 15 feet - on lots greater than 50 feet in width - for any portion of the pedestal above 35 feet in height - (for residential apartment structures seeking approval under section 7.2.15.2.f.3 below) (4)			
Tower	The required pedestal setback plus 10% the height of the building 15 feet - for residential apartment structures seeking approval under section 7.2.15.2.f.3 below (3)			
Rear Setback (feet) ④	R-PS1	R-PS2	R-PS3	R-PS4
Subterranean	10% of lot depth – Nonooceanfront lots			
Pedestal	20% of lot depth, 50 feet minimum from bulkhead line – Oceanfront Lots			
Tower	15% of lot depth – Nonooceanfront lots 25% of lot depth, 75 feet minimum from bulkhead line – Oceanfront lots however, for residential apartment structures seeking approval under section 7.2.15.2.f.3 below, the tower setback shall be the same as the pedestal setback. (3)			

* * *

- (1) All required setbacks shall be considered as minimum requirements except for the pedestal front yard setback and pedestal side yard facing a street setback which shall be considered as both minimum and maximum requirements.
- (2) For lots greater than 100 feet in width the front setback shall be extended to include at least one open court with a minimum area of 3 square feet for every linear foot of lot frontage.
- (3) In the R-PS4 zoning district, within the Ocean Beach historic district, the tower portion of ground-floor additions to contributing buildings shall meet a line-of-sight, which for the purpose of this section is defined as not visible when viewed at eye-level (5 feet and 6 inches from grade) from the opposite side of the adjacent right-of-way.
- (4) In the R-PS4 zoning district within the Ocean Beach historic district, when an existing contributing structure has a minimum 5-foot side yard setback, the setback of new construction in connection with the existing building may be allowed to follow the existing building line. The maintenance of the existing setback shall apply to the linear extension of the existing building. Notwithstanding the above, for residential apartment structures seeking approval for the voluntary FAR and height incentive under section 7.2.15.2.f.4 below, with a building height of over 100 feet, the minimum pedestal side setback shall be 7.5 feet for any portion of the pedestal below 35 feet in height and shall be 15 feet for any portion of the pedestal above 35 feet in height.

* * *

4. Voluntary FAR and height incentive for conversion from hotel to residential use. Notwithstanding the foregoing FAR and height limitations, for a property with a main use of hotel as of January 1, 2022, which, as built, exceeds an FAR of 2.0 and is located within the R-PS4 zoning district, the maximum FAR may be increased to 2.75 and the maximum height may be increased to 145 feet as a voluntary development incentive, subject to the property owner's voluntary agreement to strictly comply with the following conditions:

- A. The main use on the property shall be converted to residential and shall remain residential in perpetuity; hostel, hotel, apartment-hotel, and suite-hotel use shall be prohibited.
- B. 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 and maximum height of 145 feet. 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 (as set forth in Section 2.12.7 and Section 2.12.8), provided any alterations and modifications do not result in the building exceeding an FAR of 2.75.
- C. A property shall only be eligible for the FAR and height incentives set forth in ~~the~~ this subsection, not to exceed a total FAR of 2.75 and a total height of 145 feet, if the property owner's 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.
- D. Any existing contributing building shall be retained in a manner reviewed and approved by the Historic Preservation Board.
- E. A property shall only be eligible for the FAR and height incentives set forth in this subsection, not to exceed a total FAR of 2.75 and a total height of 145 feet, if a certificate of appropriateness for a land development application that includes the incentives is issued by the Historic Preservation Board no later than December 31, 2027 and the corresponding full building permit is issued no later than June 30, 2030.
- F. There shall be no variances from ~~the~~ this subsection (e)- (4)A-F.

SECTION 2. 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 Resiliency 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 3. REPEALER.

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

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 NK 11/11/2024
Date

First Reading: October 30, 2024
Second Reading: November 20, 2024

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