

C4 D REFERRAL TO THE PLANNING BOARD – LINCOLN ROAD EAST RESIDENTIAL  
USE INCENTIVES.

Applicable Area:

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission  
FROM: Eric Carpenter, City Manager  
DATE: December 11, 2024  
TITLE: REFERRAL TO THE PLANNING BOARD – LINCOLN ROAD EAST RESIDENTIAL USE INCENTIVES.

### **RECOMMENDATION**

The Administration recommends that the Mayor and City Commission (City Commission) refer the attached draft ordinances to the Planning Board.

### **BACKGROUND/HISTORY**

On June 26, 2024, at the request of Commissioner Alex Fernandez, the City Commission referred the item (C4 AD) to the Land Use and Sustainability Committee (LUSC). Commissioner Joseph Magazine also co-sponsored the item. On July 9, 2024, the LUSC discussed and continued the item to the September 5, 2024, meeting with direction to the Administration to develop a draft ordinance incentivizing non-transient residential uses. Additionally, Commissioner David Suarez became a co-sponsor of the item.

On September 5, 2024, the LUSC took the following action:

1. Discussed and continued the item to a future LUSC meeting.
2. A special meeting of the LUSC was scheduled for September 24, 2024, to discuss all related legislation involving Floor Area Ratio (FAR) incentives for non-transient residential uses.
3. Direction was given to amend the applicable FAR incentive ordinances to include a provision for a 6/7 vote to reverse required covenants pertaining to non-transient residential uses.

The September 24, 2024, LUSC meeting was postponed and moved to a special meeting of the LUSC on November 5, 2024. On November 5, 2024, the LUSC discussed the proposal and recommended the following:

1. The City Commission refer ordinance amendments to the Planning Board in accordance with the recommendations in the LUSC memorandum.
2. The Planning Board discuss and provide a recommendation regarding the potential of including a lesser as of right FAR and the remainder of the allowable FAR to be purchased by private property owners as part of a Transfer of Development Rights (TDR) program.

### **ANALYSIS**

The CD-3 district bounded by Drexel Avenue on the west, Collins Avenue on the east, 17th Street on the north, and 16th Street on the south allows for greater intensity than the area of Lincoln Road west of Drexel Avenue. Within these boundaries, the current maximum allowable FAR is 2.75, regardless of lot size. Also, while the existing maximum permitted height for properties on

Lincoln Road is 50 feet, the current maximum permitted height for properties east of Drexel Avenue, between 16th Street and the south lot line of Lincoln Road is 100 feet.

The attached draft ordinance amends the Land Development Regulations of the City Code (LDRs) for properties fronting Lincoln Road between Drexel Avenue and Collins Avenue, as well as certain properties located north of Lincoln Road and south of 17th Street (see attached map).

The proposed incentives identified in the draft LDR amendment are predicated on the following:

- Any and all existing transient uses shall be fully vacated and prohibited.
- Only non-transient, residential units would be permitted above the first floor.
- Discontinuance of any nonconforming entertainment establishment.
- All contributing structures shall be retained and restored, as may be required by the historic preservation board.

Additionally, certain minimum public benefits would be required, including at least one of the following:

- A covered transit shelter shall be provided within 1,500 feet of the development site.
- A contribution to the South Beach public benefits fund.
- A full building permit for the development shall be issued within 24 months of the effective date of the ordinance.

The following is an initial list of incentives included in the draft ordinance:

1. Parking Tier 1, 2.c and 3.a would be amended to eliminate the minimum off-street parking requirement for non-transient, residential projects.
2. The maximum FAR would be increased from 2.75 to 3.5.
3. The maximum height for properties fronting the south side of Lincoln Road shall be increased from 100 feet up to 150 feet, with additional setbacks for portions located above 50 feet in height.
4. The maximum height for properties fronting the north side of Lincoln Road and for properties that do not contain a contributing building located between Lincoln Road and 17th Street shall be increased from 50 feet up to 125 feet, with additional setbacks for portions located above 50 feet in height.
5. Multi-story rooftop additions may be permitted to facilitate the retention and restoration of contributing buildings at the discretion of the Historic Preservation Board.
6. A reduction or elimination of the mobility fee.

Additionally, the previous incentives for hotel uses on Lincoln Road are proposed to be removed.

Finally, a draft ordinance amending the corresponding sections of the comprehensive plan is attached.

## **APPLICATION FEE WAIVER**

The subject amendment is proposed on a comprehensive 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.

Should this proposal be referred to the Planning Board, the Administration recommends that the City Commission determine that the proposed amendment is necessary based on circumstances unique to the proposed amendment and waive the applicable fees.

### **FISCAL IMPACT STATEMENT**

Not Applicable

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

**If applicable, the Business Impact Estimate (BIE) was published on:**

**See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>**

### **FINANCIAL INFORMATION**

Not Applicable

### **CONCLUSION**

The Administration recommends the following:

1. The City Commission refer the attached draft ordinances to the Planning Board, with specific direction to the Board to discuss and provide a recommendation regarding the potential of including a lesser as of right FAR and the remainder of the allowable FAR to be purchased by private property owners as part of a Transfer of Development Rights (TDR) program.
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**

South Beach

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

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

Yes

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying?** Yes

If so, specify the name of lobbyist(s) and principal(s): Peter Kanavos, Sobe Sky Development

**Department**

Planning

**Sponsor(s)**

Commissioner Alex Fernandez

**Co-sponsor(s)**

**Condensed Title**

Ref: PB – Lincoln Road East Residential Use Incentives. (Fernandez) PL

**Lincoln Road East Residential Use Incentives – LDR Amendments**

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH RESILIENCY CODE, BY AMENDING CHAPTER 5, ENTITLED “OFF-STREET PARKING,” ARTICLE II, ENTITLED “VEHICLE PARKING, BICYCLE PARKING AND OFF-STREET LOADING REQUIREMENTS,” AT SECTION 5.2.4, ENTITLED “VEHICLE OFF-STREET PARKING REQUIREMENTS,” BY AMENDING THE PARKING REQUIREMENTS IN PARKING TIER 1, BY AMENDING THE PARKING REQUIREMENTS IN PARKING TIER 2; BY AMENDING THE PARKING REQUIREMENTS IN PARKING TIER 3, BY AMENDING CHAPTER 7, ENTITLED “ZONING DISTRICT REGULATIONS,” ARTICLE I, ENTITLED “GENERAL TO ALL ZONING DISTRICTS,” BY CREATING SECTION 7.1.10, ENTITLED “RESIDENTIAL USE INCENTIVES,” TO ESTABLISH RESIDENTIAL USE INCENTIVES SPECIFIC TO PROPERTIES IN APPLICABLE UNDERLYING ZONING DISTRICTS AND PROPERTIES FRONTING LINCOLN ROAD FROM DREXEL AVENUE TO COLLINS AVENUE; BY AMENDING ARTICLE II, ENTITLED “DISTRICT REGULATIONS,” SECTION 7.2.12 ENTITLED “CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT,” TO DELETE SECTION 7.2.12.4, ENTITLED “ADDITIONAL REGULATIONS (CD-3)”;** BY AMENDING ARTICLE V, ENTITLED “SUPPLEMENTARY DISTRICT REGULATIONS,” BY AMENDING SECTION 7.5.2. 1 ENTITLED “HEIGHT REGULATION EXCEPTIONS AND ROOFTOP ADDITIONS,” TO ALLOW FOR MULTI-STORY ROOFTOP ADDITIONS FOR PROJECTS THAT QUALIFY FOR THE LINCOLN ROAD RESIDENTIAL USE INCENTIVES; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

**WHEREAS**, the proliferation of transient uses may exacerbate housing affordability issues by reducing the availability of traditional rental housing options for families and individuals, as well as the city’s workforce; and

**WHEREAS**, creating incentives for non-transient residential uses along the Lincoln Road corridor would enable the implementation of more equitable and comprehensive housing policies that prioritize the well-being and stability of all residents; 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 5, entitled “Off Street Parking,” Article II, entitled “Vehicle Parking, Bicycle Parking and Off-Street Loading Requirements,” is hereby amended as follows:

**CHAPTER 5  
OFF STREET PARKING**

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**ARTICLE II. VEHICLE PARKING, BICYCLE PARKING AND OFF-STREET LOADING REQUIREMENTS**

\* \* \*

## 5.2.4 VEHICLE OFF-STREET PARKING REQUIREMENTS

\* \* \*

### 5.2.4.1 Parking Tier 1

\* \* \*

b. Supplemental off-street parking requirements for parking tier 1

1. Supplemental off-street parking requirements specific to districts

<u>CD-3</u>	<u>Non-Transient residential units built in accordance with Section 7.1.10</u>	No parking requirement
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### 5.2.4.2 Parking Tier 2

Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking Tier 2 accessory off-street parking spaces shall be provided for the building, structure or additional floor area as follows. For uses not listed below, the off-street parking requirement shall be the same as for parking tier 1.

\* \* \*

#### Tier 2c

c. Off-street parking requirements for Tier 2 area c.

\* \* \*

2. The following off-street parking requirements apply to properties located within Tier 2 area c.

OFF-STREET PARKING REQUIREMENT	
<b>RESIDENTIAL</b>	
<del>Co-living</del> <u>Non-Transient residential units built in accordance with Section 7.1.10</u>	No parking requirement.
<b>LODGING</b>	
<i>Hotel and hostel</i>	No parking requirement. For accessory uses to a hotel or hostel, the minimum parking is as set forth in parking tier. 1.
<b>OFFICE</b>	
<i>Office</i>	No parking requirement
<b>COMMERCIAL</b>	

<i>Café, outdoor</i>		No parking requirement
<i>Retail</i>	Retail existing as of the date of adoption of previous parking district no. 7 (now Tier 2 area c)	No parking requirement.
	New retail construction	One space per 300 square feet of floor area
	Notwithstanding the above, there shall be no parking requirement for retail uses, provided that a parking garage with publicly accessible parking spaces is located within 500 feet.	
<i>Quality restaurants</i>		No parking requirement.
<b>OTHER</b>		
<i>Approved parklets</i>		No parking requirement

1. With the exception of non-transient residential projects, built in accordance with Section 7.1.10, the parking requirements in this subsection above shall only apply to projects that have obtained a full building permit or business tax receipt by September 1, 2027.
2. Any building or structure erected in Tier 2 area c may provide required parking on site as specified in parking tier 1. Such required parking, if provided, shall be exempt from FAR, in accordance with the regulations specified in chapter 1 of these land development regulations.

\* \* \*

### 5.2.4.3 Parking Tier 3

Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking Tier 3, accessory off-street parking spaces shall be provided for the building, structure or additional floor area as follows.

#### Tier 3 a, b and c

- a. Off-street parking requirements for Tier 3 areas a, b and c.

\* \* \*

5. Supplemental off-street parking regulations for Tier 3 areas a, b and c

- A. Supplemental off-street parking requirements specific to districts

<u>CD-3</u>	<u>Non-Transient residential units built in accordance with Section 7.1.10</u>	<u>No parking requirement</u>
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**SECTION 2.** Chapter 7, entitled “Zoning District Regulations,” Article I, entitled “General to All Zoning Districts,” is hereby amended as follows:

**CHAPTER 7  
ZONING DISTRICTS AND REGULATIONS**

**ARTICLE I. GENERAL TO ALL ZONING DISTRICTS**

\* \* \*

**7.1.10 RESIDENTIAL USE INCENTIVES**

a. **Eligible Development.** These provisions are hereby adopted as voluntary zoning incentives for non-transient residential development. Where authorized in the underlying zoning district or overlay district, and in accordance with all applicable regulations set forth in such zoning district or overlay district, residential developments consisting solely of non-transient residential units and allowable accessory uses shall be eligible for applicable incentives set forth in such zoning district or overlay district, subject to the property owner's agreement to be bound by the following conditions:

1. Lodging Use Conversion and Prohibition. In order to be eligible for the residential use incentives, the property shall be required to fully vacate any and all existing transient uses including, but not limited to, bed & breakfast inn, hostel, hotel, apartment hotel, suite hotel or rooming house. Such transient uses shall be prohibited throughout the development and at all times, in order to maintain the residential use incentives authorized for the applicable zoning district or overlay district.
2. Short Term Rental Conversion and Prohibition. In order to be eligible for the voluntary residential use incentives authorized for the applicable zoning district or overlay district, the property owner(s) shall first be required to vacate any and all existing approvals for the short-term rental of any apartment units on the property.
3. Nonconforming Entertainment Establishment. In order to be eligible for the voluntary residential use incentives, the property shall be required to fully vacate any and all existing nonconforming entertainment establishments. Such entertainment establishment uses shall be prohibited throughout the development and at all times, in order to maintain the residential use incentives authorized for the applicable zoning district or overlay district
4. Covenant. As a condition of eligibility for the voluntary residential use incentives authorized for the applicable zoning district or overlay district, the property owner(s) shall first be required to execute a restrictive covenant running with the land, in a form approved by the City Attorney, affirming that throughout the building and at all times, no residential units on the property shall be leased or rented for a period of less than six months and one day, and that no transient uses including, but not limited to, bed & breakfast inn, hostel, hotel, apartment hotel, suite hotel or rooming house, shall be permitted on the property. The covenant shall expressly provide that an affirmative vote of six-sevenths of all members of the city commission shall be required in order to release the covenant or to modify the covenant in such a manner as to impose a less stringent restriction after it is executed.
5. Certificate of Appropriateness. If the property is located within a local historic district or site, as a condition of eligibility for the voluntary residential use incentives authorized for the applicable zoning district or overlay district, the property owner(s) shall be required to

retain, preserve and restore all contributing structures on the site, as may be required by the historic preservation board and subject to certificate of appropriateness approval in accordance with chapter 2, article VIII of the land development regulations of the city code.

**b. Lincoln Road North between Drexel Avenue and Collins Avenue.** For properties with a lot line on the north side of Lincoln Road, between the east side of Drexel Avenue and the west side of Collins Avenue, as well as properties that do not contain a building classified as contributing as of January 1, 2024 that are located south of 17<sup>th</sup> Street and north of Lincoln Road between the east side of Washington Avenue and the west side of Collins Avenue, and that comply with the requirements in section 7.1.10.a above, the maximum FAR shall not exceed 3.5, regardless of the zoning district and subject to the following regulations:

1. All portions of the project above the first level shall consist of non-transient residential uses.
2. Portions of new construction, including additions to existing buildings, located above 50 feet in height, shall be setback a minimum of 50 feet from Lincoln Road, 20 feet from BA Caputo Way and 25 feet from any adjacent side street.
3. Off-street parking spaces, if provided, shall not exceed 20% of the number of off-street parking spaces required under parking tier 1.
4. Off-street parking for building staff and/or service operations shall be provided at the same ratio as required loading spaces.
5. A maximum building height of up to 125 feet may be permitted, provided the project includes at least one of the following public benefits:
  - a. A covered transit shelter shall be provided by the property owner, which meets all minimum standards and requirements set forth by the Transportation Department and is located within 1500 feet of the development site.
  - b. The property shall provide a micro mobility station at the first level and be part of a micro mobility network that is accessible to the general public. At a minimum, this shall include a public sharing program for no less than 20 micro-mobility devices located within the confines of the property.
  - c. A contribution to the South Beach public benefits fund, in the amount identified in appendix A, shall be required for each square foot of floor area. The payment shall be made prior to the development obtaining a building permit and shall be non-refundable upon issuance of the building permit.
  - d. A full building permit for the development project shall be issued within 24 months of the effective date of the ordinance creating this section. This 24-month period shall not be eligible for any extension of time and cannot be tolled by extensions or modifications of board orders or state extension of development orders. If a full building permit is not obtained within 24 months, at least one of the above noted options shall be required in order to achieve the additional maximum building height.
6. The required mobility fee shall be waived for projects that have obtained a full building permit by September 1, 2030.
7. The FAR and height requirements in this subsection above shall only apply to projects that have obtained a full building permit or business tax receipt by September 1, 2030.

8. If there are conflicts between these regulations and those set forth within the underlying zoning district, as well as any other section of the City Code, the provisions in Section 7.1.10 shall control.

d. Lincoln Road South between Drexel Avenue and Collins Avenue. For properties with a lot line on the south side of Lincoln Road, between the east side of Drexel Avenue and the west side of Collins Avenue, and that comply with the requirements in section 7.1.10.a above, the maximum FAR shall not exceed 3.5, regardless of the zoning district and subject to the following regulations:

1. All portions of the project above the first level shall consist of non-transient residential uses.
2. Portions of new construction, including additions to existing buildings, located above 50 feet in height, shall be setback a minimum of 50 feet from Lincoln Road and 25 feet from any adjacent side street.
3. Off-street parking spaces, if provided, shall not exceed 20% of the number of off-street parking spaces required under parking tier 1.
4. Off-street parking for building staff and/or service operations shall be provided at the same ratio as required loading spaces.
5. A maximum building height of up to 150 feet may be permitted, provided the project includes at least one of the following public benefits:
  - a. A covered transit shelter shall be provided by the property owner, which meets all minimum standards and requirements set forth by the Transportation Department and is located within 1500 feet of the development site.
  - b. The property shall provide a micro mobility station at the first level and be part of a micro mobility network that is accessible to the general public. At a minimum, this shall include a public sharing program for no less than 20 micro-mobility devices located within the confines of the property.
  - c. A contribution to the South Beach public benefits fund, in the amount identified in appendix A, shall be required for each square foot of floor area. The payment shall be made prior to the development obtaining a building permit and shall be non-refundable upon issuance of the building permit.
  - d. A full building permit for the development project shall be issued within 24 months of the effective date of the ordinance creating this section. This 24-month period shall not be eligible for any extension of time and cannot be tolled by extensions or modifications of board orders or state extension of development orders. If a full building permit is not obtained within 24 months, at least one of the above noted options shall be required in order to achieve the additional maximum building height.
6. The required mobility fee shall be waived for projects that have obtained a full building permit by September 1, 2030.
7. The FAR and height requirements in this subsection above shall only apply to projects that have obtained a full building permit or business tax receipt by September 1, 2030.
8. If there are conflicts between these regulations and those set forth within the underlying

zoning district, as well as any other section of the City Code, the provisions in Section 7.1.10 shall control.

e. There shall be no variances from the requirements of this section for eligible developments.

**SECTION 3.** Chapter 7, entitled "Zoning District Regulations," Article II, entitled "District Regulations," Section 7.2.12, entitled "CD-3 Commercial, High Intensity District," is hereby amended as follows:

**CHAPTER 7  
ZONING DISTRICTS AND REGULATIONS**

\* \* \*

**ARTICLE II: DISTRICT REGULATIONS**

\* \* \*

**7.2.12 CD-3 COMMERCIAL, HIGH INTENSITY DISTRICT**

\* \* \*

**7.2.12.4 Additional Regulations (CD-3)**

**~~a. Lincoln Road hotel incentives and public benefits program.~~**

~~In order for a hotel on Lincoln Road to be constructed with a minimum unit size of 200 square feet (as applicable to hotels on the north side of Lincoln Road) or a minimum average unit size of 250 square feet (as applicable to hotels on the south side of Lincoln Road), and in order to construct a hotel on Lincoln Road that is taller than 50 feet, 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. Additionally, for a hotel to be eligible for the unit size and height incentives set forth herein, participation in a public benefits program, as further set forth below, shall be required:~~

- ~~1. *Provide ground floor public benefit space.* On-site, ground floor space within the building in which the hotel is located shall be provided, with a minimum area of 500 square feet, for use by Miami Beach-based not-for-profit entities and/or artisans, as workshops, or for display or demonstration purposes, either of which shall be open to public view ("public benefit space"). Any required land use board approvals associated with a public benefit space approved pursuant to this paragraph shall be the responsibility of the non-profit entity or artisan, respectively.~~
- ~~2. *Contribution to Art in Public Places fund.* In addition to providing an on-site public benefit space pursuant to section 7.2.12.4.a.1, a hotel shall provide a contribution to the city's Art in Public Places fund, the amount of which shall be equal to 0.5 percent (0.5%) of the total of all construction costs associated with the proposed hotel project, regardless of the number of permits associated with the project or whether the applicant intends to construct the hotel in phases. Full payment of the contribution shall be made prior to the issuance of a certificate of occupancy.~~

- 3. ~~Final approval.~~ Prior to the issuance of a final certificate of occupancy for the property, a covenant executed by the property owner shall be submitted to the city, in a form approved by the city attorney and city manager, which covenant shall, at a minimum, identify the location of the public benefit space, and require a hotel owner and/or operator to maintain the public benefit space for so long as the hotel use on the subject property remains active, unless a shorter term is approved by resolution of the city commission.
- 4. ~~Limitation.~~ There shall be a limit of 500 hotel units constructed between Pennsylvania Avenue and Lenox Avenue, which utilize the unit size and/or height incentives set forth in this section 7.2.12.4.a.

**SECTION 4.** Chapter 7, entitled “Zoning District Regulations,” Article V, entitled “Supplementary District Regulations,” Section 7.5.2, entitled “Height Regulation Exceptions,” is hereby amended as follows:

**CHAPTER 7  
ZONING DISTRICTS AND REGULATIONS**

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**ARTICLE V: SUPPLEMENTARY DISTRICT REGULATIONS**

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**7.5.2 HEIGHT REGULATIONS EXCEPTIONS (SUPPLEMENTARY DISTRICT REGULATIONS)**

\* \* \*

**7.5.2.1 Height regulation exceptions and rooftop additions.**

\* \* \*

d. Rooftop additions.

- 1. ~~Lincoln Road hotel residential additions.~~ Notwithstanding the foregoing, For properties that front Lincoln Road between Drexel Avenue and Collins Avenue, and that comply with the requirements in section 7.1.10.a, and at the discretion of the historic preservation board, a multistory rooftop addition, for ~~hotel~~ non-transient residential uses only, may be permitted for properties on Lincoln Road, located between ~~Pennsylvania Avenue~~ Drexel Avenue and ~~Lenox Avenue~~ Collins Avenue, in accordance with the following provisions:
  - A. ~~For properties on the north side of Lincoln Road,~~ a Any 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 consistent with the scale and massing of the existing structure.
  - 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. All contributing buildings shall be retained and restored in accordance with the Secretary of Interior’s Standards for Rehabilitation, as determined by the historic preservation board.
  - 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 section 7.2.12.4.a, shall be~~



Lincoln Road East Residential Use Incentives - Comprehensive Plan Amendment

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

**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;***

**BY AMENDING POLICY RLU 1.1.10, ENTITLED “HIGH INTENSITY COMMERCIAL (CD-3),” TO PROVIDE FAR AND DENSITY INCENTIVES TO ENCOURAGE THE DEVELOPMENT OF NON-TRANSIENT RESIDENTIAL USES AND THE CONVERSION OF EXISTING TRANSIENT USES TO NON-TRANSIENT RESIDENTIAL USES FOR APPLICABLE PROPERTIES WITH A LOT LINE ON LICOLN ROAD AND PROPERTIES LOCATED SOUTH OF 17TH STREET, BETWEEN THE EAST SIDE OF DREXEL AVENUE AND THE WEST SIDE OF COLLINS AVENUE;**

***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 AND DENSITY INCENTIVES SET FORTH IN THIS ORDINANCE;***

**AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, TRANSMITTAL AND AN EFFECTIVE DATE.**

**WHEREAS,** the 2010 US Census indicated that the City of Miami Beach had a population of 87,779; and

**WHEREAS,** the 2020 US Census indicated that the City of Miami Beach had a population of 82,890; and

**WHEREAS,** between 2010 and 2020, the City of Miami Beach lost a net total of 4,889 residents; and

**WHEREAS,** the July 2022 Census American Community Survey estimates that the City of Miami Beach has a population of 80,017, reflecting a further loss of 2,873 residents since the 2020 Census; and

**WHEREAS,** the City finds the loss of permanent residents may have had a negative impact on the quality of life of remaining residents, by encouraging more traffic congestion due to the need for employees to commute longer distances to employment centers within the City; and

**WHEREAS,** the loss of residents is partially due to the conversion of residential units to short-term rentals or other transient units; and

**WHEREAS**, the introduction of transient units in predominantly residential areas has created nuisances for residents and often prevents the quiet enjoyment of their residences; and

**WHEREAS**, Section 509.032, Florida Statutes provides that “A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011”; and

**WHEREAS**, per Section 509.032, Florida Statutes, the City of Miami Beach cannot prohibit the short-term rental of residential units in areas where they were not prohibited prior to June 1, 2011; and

**WHEREAS**, the City seeks to establish incentives in order to encourage residential development that will not be used for short-term rentals or other transient uses in order to encourage the growth of the permanent resident population; and

**WHEREAS**, the City has the authority to enact laws that promote the public health, safety, and general welfare of its citizens; 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.** The following amendments to the City’s 2040 Comprehensive Plan Resilient Land Use & Development Element are hereby adopted:

**RESILIENT LAND USE & DEVELOPMENT ELEMENT**

\* \* \*

**GOAL RLU 1: LAND USE**

\* \* \*

**OBJECTIVE RLU 1.1 Establishment of Future Land Use Categories**

The City hereby adopts future land use map categories to provide for an efficient distribution and compatible pattern of land uses, and to maintain and enhance the character of the community.

\* \* \*

**Table RLU 1.1**

The following table is a reference guide that depicts the policy number, and maximum densities and intensities for each future land use map (FLUM) category.

(\* = Refer to policy for limits)

FLUM Category	Density Limits	Intensity Limits	Reference
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	(Units Per Acre)	(Floor Area Ratio)	(Policy #)
*	*	*	*
High Intensity Commercial (CD-3)	<del>450</del> 175 units per acre	2.0 <u>4.0</u> *	RLU 1.1.10

\* \* \*

**POLICY RLU 1.1.10 HIGH INTENSITY COMMERCIAL (CD-3)**

Purpose: To provide development opportunities for and to enhance the desirability and quality of existing and/or new medium intensity commercial areas which primarily serve the entire City.

Uses which may be permitted: Various types of commercial uses including business and professional offices, retail sales and service establishments, eating and drinking establishments; apartment residential uses; apartment hotels; and hotels.

Other uses which may be permitted are accessory uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to be subordinate to the main use; and conditional uses specifically authorized in this land use category, as described in the Land Development Regulations, which are required to go through a public hearing process as prescribed in the Land Development Regulations of the Code of the City of Miami Beach.

Density Limits: 150 dwelling units per acre.

Intensity Limits:

- a floor area ratio of 2.25 on lot area equal to or less than 45,000 sq. ft.;
- a floor area ratio of 2.75 on lot area greater than 45,000 sq. ft.;
- a floor area ratio 3.0 on oceanfront lots with lot area greater than 45,000 sq. ft.;
- a floor area ratio of 2.0 on oceanfront lots in architectural district;
- *for developments located on Washington Avenue between 16<sup>th</sup> Street and 17<sup>th</sup> street. as described in the land development regulations, that comply with the requirements for residential use incentives in policy RLU 1.2.8, the floor area ratio shall not exceed 4.0.*
- for developments located south of 17<sup>th</sup> Street to the south side of Lincoln Road, including properties with a lot line on Lincoln Road, between the east side of Drexel Avenue and the west side of Collins Avenue, excluding properties located on Washington Avenue between 16<sup>th</sup> Street and 17<sup>th</sup> street. as described in the land development regulations, that comply with the requirements for residential use incentives in policy RLU 1.2.8, the floor area ratio shall not exceed 3.5

\* \* \*

**OBJECTIVE RLU 1.2: LAND USE REGULATION**

Future growth and development, redevelopment and rehabilitation will be managed through the preparation, adoption, implementation, and enforcement of land development regulations (LDR) consistent with the Comprehensive Plan and with s.163.3202, F.S.

\* \* \*

### **POLICY 1.2.8 RESIDENTIAL USE INCENTIVES**

*These provisions are hereby adopted to provide voluntary zoning incentives for non-transient residential development. Where authorized in the underlying future land use category, and in accordance with all applicable regulations set forth in the Comprehensive Plan and Land Development Regulations, residential developments consisting solely of non-transient residential units and allowable accessory uses shall be eligible for applicable incentives set forth in such future land use category, subject to the following conditions:*

1. **Lodging Use Conversion and Prohibition.** *In order to be eligible for the residential use incentives, the property shall be required to fully vacate any and all existing transient uses including, but not limited to, bed & breakfast inn, hostel, hotel, apartment hotel, suite hotel, or rooming house. Such transient uses shall be prohibited throughout the development and at all times, in order to maintain the residential use incentives authorized for the applicable future land use category.*
2. **Short Term Rental Conversion and Prohibition.** *In order to be eligible for the voluntary residential use incentives authorized for the applicable future land use category, the property owner(s) shall first be required to vacate any and all existing approvals for the short-term rental of any apartment units on the property.*
3. **Covenant.** *As a condition of eligibility for the voluntary residential use incentives authorized for the applicable future land use category, the property owner(s) shall first be required to execute a restrictive covenant running with the land, in a form approved by the City Attorney, affirming that throughout the building and at all times, no residential units on the property shall be leased or rented for a period of less than six months and one day, and that no transient uses including, but not limited to, bed & breakfast inn, hostel, hotel, apartment hotel, suite hotel or rooming house, shall be permitted on the property. The covenant shall expressly provide that an affirmative vote of six-sevenths of all members of the city commission shall be required in order to release the covenant or to modify the covenant in such a manner as to impose a less stringent restriction after it is executed.*

### **SECTION 2. CODIFICATION.**

It is the intention of the City Commission that this Ordinance be entered into the Comprehensive Plan of the City of Miami Beach, FL, and it is hereby ordained that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and that 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.



**WASHINGTON AVENUE**

**17TH STREET**

For properties that do not contain a building classified as contributing as of January 1, 2024:

FAR: Current 2.75; Incentive 3.5  
Height: Current 50 feet, fronting 17th St 80 feet; Incentive 125 feet

**DREXEL AVENUE**

FAR: Current 2.75; Incentive 3.5  
Height: Current 50 feet; Incentive 125 feet

**LINCOLN ROAD**

FAR: Current 2.75; Incentive 3.5  
Height: Current 50 feet; Incentive 150 feet

**COLLINS AVENUE**

**16TH STREET**