



MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: September 14, 2011

SUBJECT: **Referral to the Planning Board – An Ordinance modifying the height limitations in the RPS-4 Zoning District.**

INTRODUCTION

At the July 20, 2011 meeting, the Land Use and Development Committee discussed and referred to the Planning Board, with a favorable recommendation, a proposed Ordinance amendment pertaining to allowable height limitations in the RPS-4 Zoning District. The Land Use Committee discussed a draft ordinance proposed by area residents, as well as a slightly different version drafted by Planning Department Staff.

The proposed ordinance would increase the maximum allowable height for apartment buildings in the RPS-4 district from 75' to 100'. As part of the discussion and recommendation, the members of the Land Use Committee recommended that the following areas also be addressed as part of a revised Ordinance:

- The issue of 'Short Term Rentals'; rentals would be no less than 3 months, no more than 6 months and not exceed 3 times per calendar year.
- The maximum number of units would 55.
- The proper accommodation of all required parking spaces on site (no impact fees).
- Changes to the Ordinance to address any issues with 'Spot Zoning'.

RECOMMENDATION

Refer the proposed Ordinance to the Planning Board for its review and recommendation, as amended by the Land Use and Development Committee.

JMG/JGG/RGL/TRM

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Agenda Item CYF
Date 9-14-11

RPS-4 Heights 2011 – Planning Department Option

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", DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT", SECTION 142-696 "RESIDENTIAL PERFORMANCE STANDARD AREA REQUIREMENTS" TO MODIFY THE MAXIMUM HEIGHT REQUIREMENTS FOR RESIDENTIAL APARTMENT STRUCTURES; BY AMENDING SECTION 142-697 "SETBACK REQUIREMENTS IN THE R-PS1, 2, 3, 4 DISTRICTS", TO MODIFY THE SETBACK REQUIREMENTS FOR OCEANFRONT BUILDINGS; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach continually seeks to update and clearly define the requirements of the Land Development Regulations of the Code of the City of Miami Beach as they pertain to zoning districts and regulations; and

WHEREAS, the City of Miami Beach recognizes the benefits of encouraging and incentivizing residential apartment development in the South Pointe area; and,

WHEREAS, the City of Miami Beach has adopted regulations pertaining to the height and setbacks of structures in the RPS-4 district; and,

WHEREAS, the City of Miami Beach desires to modify the maximum building height and setback requirements for new residential apartment structures in the RPS-4 district; 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. That Chapter 142, Entitled "Zoning Districts and Regulations", Article II, Entitled "District Regulations ", Division 18, Entitled "PS Performance Standards District" of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 142-696. - Residential performance standard area requirements.

The residential performance standard area requirements are as follows:

	Residential Subdistricts			
<i>Performance Standard</i>	<i>R-PS1</i>	<i>R-PS2</i>	<i>R-PS3</i>	<i>R-PS4</i>
Minimum lot area	5,750 square feet	5,750 square feet	5,750 square feet	5,750 square feet
Minimum lot width	50 feet	50 feet	50 feet	50 feet
Required open space ratio	0.60, See section 142-704	0.65, See section 142-704	0.70, See section 142-704	0.70, See section 142-704
Maximum building height*	45 feet Lots 50 feet wide or less—35 feet	45 feet Lots 50 feet wide or less—35 feet	50 feet Lots 50 feet wide or less—35 feet	Non-oceanfront - 80 feet; Oceanfront—100 feet; except that in the Ocean Beach Historic District—35 feet for the first 60 feet of lot depth, 75 feet thereafter, subject to the line-of-sight analysis of section 142-697(d) Lots 50 feet wide or less - 35 feet
Maximum number of stories	5 Lots 50 feet wide or less—4	5 Lots 50 feet wide or less—4	5 Lots 50 feet wide or less—4	Non-oceanfront - 8 Oceanfront - 11 Lots 50 feet wide or less - 4 In the Ocean Beach Historic District - 7
Maximum floor area ratio	1.25	1.50	1.75	2.0
Minimum floor area per apartment unit (square feet); except as provided in section 142-1183 for elderly housing	New construction—700 Rehabilitated buildings—400	New construction—650 Rehabilitated buildings—400	New construction—600 Rehabilitated buildings—400	New construction - 550 Rehabilitated buildings - 400
Minimum floor area per hotel unit (square feet)	N/A	N/A	15% = 300—335 square feet 85% = 335+ square feet	15% = 300 - 335 square feet 85% = 335+ square feet
Minimum parking	Pursuant to chapter 130 and section 142-705 requirement.			
Minimum off-street	Pursuant to chapter 130, article III.			

loading	
Signs	Pursuant to chapter 138.
Suites hotel	Pursuant to article IV, division 3 of this chapter.

* Notwithstanding the foregoing provisions regarding maximum building height, in the Ocean Beach historic district, as defined in subsection 118-593(e)(11), the maximum building height for a lot located in the R-PS1, R-PS2, or R-PS3 zoning districts

- (i) With a lot exceeding 50 feet, and
- (ii) Upon which there exists a contributing structure which has not received a certificate of appropriateness for demolition (or any such approval has expired), shall be 35 feet.

1. Notwithstanding the above height restrictions, existing structures within a local historic district are subject to section 142-1161.

2. In the R-PS4 zoning district, within the Ocean Beach Historic District, when an existing contributing structure is nonconforming with respect to the height regulations in section 142-696, such structure may be repaired, renovated or rehabilitated regardless of the cost of such repair, renovation or rehabilitation, notwithstanding the provisions of chapter 118, article IX, "Nonconformances."

3. Lots at a width of 50 feet or less aggregated with adjacent parcels after November 3, 2002, shall have a maximum height of 35 feet and shall not be allowed the increased height for parcels wider than 50 feet.

4. Notwithstanding the above height restrictions, in the R-PS4 zoning district, within the Ocean Beach Historic District, the maximum height shall be 35 feet for the first 60 feet of lot depth, 75 feet thereafter, subject to the line-of-sight analysis of section 142-697(d). For residential apartment buildings, the historic preservation board may allow an increase in the overall height, not to exceed 6 stories, 60 feet for the first 60 feet of lot depth and 11 stories, 100 feet thereafter, provided all of the following conditions are satisfied:

- a. Any structures immediately abutting the property are 5 stories in height or greater;
- b. The property shall be an oceanfront lot that is 100 feet or more in width;
- c. The property shall not contain a contributing building;
- d. The sixth level of the front portion of the new construction shall meet a line-of-sight, which for the purpose of this section, is defined as not being visible when viewed at eye-level (5'6" from grade) from the opposite side of the Ocean Drive right-of-way;
- e. The proposed building shall be sited and massed in a manner that promotes and protects view corridors. At a minimum, a substantial separation of the tower portion of any structure shall be required;
- f. The front portion of the structure shall incorporate a separation in the center of the structure, which is open to sky, and is at least 10 feet in width and 25 feet in depth; the exact location of such separation shall be subject to the historic preservation board. Alternatively, the massing and architectural design of the front portion of the structure shall acknowledge the historic pattern of residential structures along Ocean Drive;
- g. The proposed building shall not contain accessory uses permitted under section 142-902(2)e.
- h. 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 executed and recorded prior to the issuance of a building permit, to ensure that the building remains as a residential apartment building for a minimum of 30 years, and that no uses under section 142-902(2)e are permitted on the premises during that time period.

Sec. 142-697. - Setback requirements in the R-PS1, 2, 3, 4 districts.

(a) The setback requirements in the R-PS1, 2, 3, 4 districts are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot (below building)	5 feet	5 feet	5 feet	Non-oceanfront lots - 5 feet Oceanfront lots - 50 feet from bulkhead line
Subterranean	5 feet	5 feet	5 feet	Non-oceanfront lots - 0 feet Oceanfront lots - 50 feet from bulkhead line
Pedestal	5 feet.	7.5 feet, except when section (e) below applies. Lots 50 feet wide or less - 5 feet. <u>however, for residential apartment structures consistent with section 142-696.4 above, 15 feet for any portion of the pedestal above 35 feet height.</u>	5 feet	Non-oceanfront lots - 10% of lot depth Oceanfront lots - 20% of lot depth, 50 feet minimum from bulkhead line.
Tower	50 feet, except that in the R-PS4 within the Ocean	The required pedestal setback plus 0.10	The required pedestal setback plus	Non-oceanfront lots - 15% of lot depth Oceanfront lots - 25% of lot depth, 75 feet minimum from

	<p>Beach Historic District, the minimum shall be 60 feet; <u>however, for residential apartment structures consistent with section 142-696.4 above, the tower setback shall be determined by the Historic Preservation Board.</u></p>	<p>the height of the building; <u>however, for residential apartment structures consistent with section 142-696.4 above, 15 feet.</u></p>	<p>0.10 the height of the building</p>	<p>bulkhead line; <u>however, for residential apartment structures consistent with section 142-696.4 above, the tower setback shall be the same as the pedestal setback.</u></p>
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(b) 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 a minimum and maximum requirements.

(c) 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 three square feet for every linear foot of lot frontage.

(d) In the R-PS4 zoning district, within the Ocean Beach Historic District, the tower portion of ground-floor additions to contributing buildings, ~~or new construction~~ shall meet a line-of-sight, which for the purpose of this section is defined as not visible when viewed at eye-level (5'6" from grade) from the opposite side of the adjacent right-of-way.

(e) In the R-PS4 zoning district within the Ocean Beach Historic District, when an existing contributing structure has a minimum 5-foot sideyard 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.

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 Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or relettered 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 _____, 2011.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading: October , 2011
Second Reading: December , 2011

Verified by: _____
Richard G. Lorber, AICP, LEED AP
Acting Planning Director

Underscore denotes new language

08/30/2011

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