

# MIAMIBEACH

## PLANNING DEPARTMENT

**City of Miami Beach**, 1700 Convention Center Drive, Miami Beach, Florida 33139  
Tel: (305) 673-7550, Fax: (305) 673-7559

April 28, 2022

Neisen Kasdin  
Akerman LLP  
98 Southeast Seventh Street  
Suite 1100  
Miami, FL 33131

**Subject: Request for Zoning Interpretation  
3611 and 3621 Collins Avenue, Miami Beach, Florida**

Dear Mr. Kasdin:

This correspondence is in response to your March 28, 2022 request (attached) for a written determination regarding height limitations in the RM-3 zoning district for the properties located at 3611 Collins Avenue and 3621 Collins Avenue. Specifically, you have requested a determination pertaining to the following:

*If a new tower is constructed on a unified development site consisting of the properties located at 3611 Collins Avenue and 3621 Collins Avenue, and all or part of the contributing structures are retained, will a new tower will be treated as new construction under Section 142-246(b) of the Code, not as a ground-floor addition, and would the tower be allowed at a maximum height of 200 feet, subject to approval of the Historic Preservation Board. Furthermore, would the provisions of Section 142-246(c) of the Code, relating to ground-floor additions apply to the new tower.*

### **Allowable Height within the Combined Site**

The proposed unified development site consists of two abutting oceanfront lots:

1. 3611 Collins Avenue, which contains one 3-story contributing building; and
2. 3621 Collins Avenue, which contains one 7-story contributing building.

Both lots are zoned RM-3 and located in the Collins Waterfront Local Historic District; however, neither lot is located within the Architectural District. The parcel at 3621 Collins Avenue is approximately 18,200 square feet in size and the parcel at 3611 Collins Avenue is approximately 36,440 square feet in size. The combined site has approximately 150 feet of lineal frontage along Collins Avenue.

The following are the relevant sections from the Land Development Regulations of the City Code:

### **Sec. 142-246. Development regulations and area requirements.**

[...]

- (b) *The lot area, lot width, unit size and building height requirements for the RM-3 residential multifamily, high intensity district are as follows:*

Minimum Lot Area (Square Feet)	Minimum Lot Width (Feet)	Minimum Unit Size (Square Feet)	Average Unit Size (Square Feet)	Maximum Building Height (Feet)
7,000	50	<p>New construction—550</p> <p>Non-elderly and elderly low and moderate income housing—400</p> <p>Workforce housing—400</p> <p>Rehabilitated buildings—400</p> <p>Hotel units:  15%: 300—335  85%: 335+</p> <p>For hotel structures located within the Collins Park District, generally bounded by the erosion control line on the east, the east side of Washington Avenue on the west, 23rd Street on the north, and 17th Street on the south, hotel units shall be a minimum of 200 square feet.</p> <p>For contributing hotel structures, located within an individual historic site, a local historic district or a national register district, which are renovated in accordance with the Secretary of the Interior Standards and Guidelines for the Rehabilitation of Historic Structures as amended, retaining the existing room configuration and sizes of at least 200 square feet shall be permitted. Additionally, the existing room configurations for the above described hotel structures may be modified to address applicable life-safety and accessibility regulations, provided the 200</p>	<p>New construction—800</p> <p>Non-elderly and elderly low and moderate income housing—400</p> <p>Workforce housing—400</p> <p>Rehabilitated buildings—550</p> <p>Hotel units—N/A.</p> <p>The number of units may not exceed the maximum density set forth in the comprehensive plan.</p>	<p>150</p> <p>Oceanfront lots—200</p> <p>Architectural dist.:  New construction—120; ground floor additions (whether attached or detached) to existing structures on oceanfront lots—50 (except as provided in section 142-1161)</p>

		square feet minimum unit size is maintained, and provided the maximum occupancy per hotel room does not exceed 4 persons. Hotel units within rooftop additions to contributing structures in a historic district and individually designated historic buildings—200.		
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(c) ***Notwithstanding the above, for oceanfront lots located within a locally designated historic district or site, but not within the architectural district, with less than 400 feet of lineal frontage along Collins Avenue and containing at least one contributing structure, the maximum building height for ground floor additions to existing structures, whether attached or detached, shall be as follows:***

- (1) ***For existing structures greater than five stories in height, the maximum height shall be limited to ten stories or the height of the roof line of the main structure on site, whichever is less. At the discretion of the historic preservation board, the maximum height of the ground floor addition may exceed ten stories if the existing and surrounding structures are greater than five stories in height, provided the addition is consistent with the scale and massing of the existing structure.***
- (2) ***For existing structures five stories or less in height, the maximum height shall be limited to five stories.***

*Additionally, the proposed addition shall not substantially reduce existing or established view corridors, nor impede the appearance or visibility of architecturally significant portions of an existing structure, as determined by the historic preservation board.*

(Emphasis added).

**Sec. 114-2. Interpretation, purpose and conflict.**

- (a) ***Words and terms not defined in section 114-1 shall be interpreted in accord with their normal dictionary meaning and customary usage.***
- (b) ***In interpreting and applying the provisions of the land development regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by these land development regulations to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, or to repeal any provisions of the City Code. Where the regulations imposed by these land development regulations are more restrictive than those imposed by any other ordinances, rules, regulations, easements, covenants or agreements, then these land development regulations shall supersede them; however,***

*when any of the above are more restrictive than this subpart, then the more restrictive provision shall govern to the extent necessary to give effect to its provisions. **When there are different regulations, one general and one more specific, both of which may apply to a given subject, the more specific one shall govern, regardless of whether it be part of the City Code or this subpart and regardless of the date of enactment.***

Section 142-246(b) of the Code provides that the maximum building height of oceanfront lots within the RM-3 district is 200 feet. More specifically, Section 142-246(c) of the Code, regulates height on oceanfront properties that contain at least one contributing building within a historic district and have less than 400 feet of lineal frontage along Collins Avenue.

While the terms “detached” and “addition” are not defined in Section 114-1 of the City Code, the Merriam-Webster dictionary definitions are as follows:

Definition of “Detached:”

Standing by itself; SEPARATE, UNCONNECTED especially. Not sharing any wall with another building, such as a house with a detached garage

Definition of “Addition:”

A part added (as to a building or residential section); the addition expanded the kitchen.

Based upon the foregoing, the introduction of a new tower completely separated from any existing building on the combined site would be considered a detached addition. Consequently, Section 142-246(c) of the City Code would apply to the construction of any new building on the combined 3611 Collins Avenue and 3621 Collins Avenue property. The less specific Section 142-246(b) would not apply.

Further, since the combined property (lot) contains a 7-story contributing building, which is greater than 5-stories in height, the maximum height of any ground level addition would be limited to ten stories or the height of the roof line of the main structure on site, whichever is less. However, at the discretion of the historic preservation board, the maximum height of the ground floor addition may exceed ten stories, up to a maximum of 200 feet, as an existing contributing structure on the lot is greater than five stories in height, provided the addition is consistent with the scale and massing of the existing structure.

In accordance with City Code Section 118-9, this administrative determination will be published on the City’s website for at least 30 days. An eligible party, as defined in Section 118-9 of the City Code, shall have up to 30 days from the posting on the web page to appeal this administrative determination.

Sincerely,



Thomas R. Mooney, AICP  
Planning Director

TRM/DJT