



MEMORANDUM

Development Services

ADMINISTRATIVE MEMORANDUM NO. 16-273

DATE: August 4, 2016

TO: Planning and Zoning Board

VIA: Robin M. Bird, Director of Development Services *RB*
 Jennifer Gomez, Assistance Director of Development Services *JG*

FROM: Karen Friedman, AICP, Principal Planner *KBF*

RE: Proposed Revisions to §155.4225.A related to Apartment Hotels

Staff has prepared text amendments for Zoning Code §155.4225.A, Apartment Hotels, in order to ensure that this use is truly a *hotel* use. Additional background information is provided below.

Comprehensive Plan Consistency

The proposed text amendments are consistent with the following Future Land Use Element Policies:

- 01.07.16** Through ongoing updates to the land development regulations provide criteria/performance standards regulating hotel intensity and incentives for hotel development.

Background

Basic Information: Apartment Hotel vs. Hotel vs. Timeshare

With the adoption of the new Zoning Code in 2012, the City adopted a new use called Apartment Hotel. Sometimes referred to as a condo-hotel, this use reflects a development trend that was created in South Florida in the 1990's and has recently become popular again. Unlike a hotel, which is owned by a single property owner, or a timeshare, where individual owners purchase the right to the recurrent use of real property on some periodic basis, an apartment hotel's units are owned by individual property owners, like a condo, but the primary use of the unit is for transient occupancy. Apartment hotels offer the convenience and amenities customary to a hotel (i.e. maid service, room service, etc...) while owners are able to rent out their unit for nightly stays, like a hotel.

Comprehensive Plan: Residential Density vs. Hotel Density and Permitted Locations

In accordance with the Broward County Land Use Plan, the City's Comprehensive Plan's Land Use Implementation section treats residential uses quite differently from hotel uses, and is much more permissive for hotel uses. The following table lists the permitted locations and maximum density for residential uses and for hotels throughout the City.

Land Use	Residential Use	Hotel Use
Residential	Permitted; Density is per the Land Use Plan Map	Permitted; Density is double the residential land use per the Land Use Plan
Commercial	Permitted via Flex Unit allocation; Maximum is 46 Units per Acre	Permitted; Maximum Units not specified and only per development regulations such as lot coverage, height, parking etc...
Commercial Recreation	Not Permitted	Permitted; Maximum Units not specified and only per development regulations such as lot coverage, height, parking etc
Industrial	Not Permitted	Permitted via Flex Unit allocation; Maximum Units not specified and only per development regulations such as lot coverage, height, parking etc

As can be seen in the above table, it is important for the City's Zoning Code to clearly differentiate between residential and hotel uses. Further it is imperative that the Apartment Hotel use is regulated in a manner that ensures its primary purpose is that of a hotel use.

Over the past year Development Services has received several requests for determinations regarding the apartment hotel use and the limitation on density per the Comprehensive Plan. Per standard practice, Staff directed the applicant to request the determination from the Broward County Planning Council. A copy of a determination letter prepared by the Broward County Planning Council is attached and states the following: *"condo hotel" units are considered to be a hotel use calculated as two hotel rooms equals one dwelling unit, subject to confirmation by the local municipality that their regulations prohibit the conversion of "condo hotel" units to full time owner and/or renter occupied dwelling units, and that the "condo hotel" units will be available for a majority of the year for hotel guests. Otherwise, a "condo hotel" unit is considered a residential use and counts as one dwelling unit per condo unit.*"

Review of other Municipalities Regulations: Apartment / Condo Hotel Standards

In order to draft regulations that address the concerns of the Broward County Planning Council and ensure that apartment hotels are indeed a *hotel* use, Staff analyzed zoning regulations utilized by other cities within Florida, as well as California and Nevada. The information is provided in the attached table. The results of the analysis are that cities tend to regulate five primary standards:

1. Limitation on the length of the owners stay
2. Design of the lobby
3. Requirements for a Management company (including uniform key service and reservations)
4. Restrictions on separate telephone and utility service
5. Requirement for maid services

Lodging Unit

A secondary, non-substantive issue being addressed in the proposed text amendments is the use of terms Guest Rooms, Sleeping Room, and Lodging Unit throughout the Zoning Code and Comprehensive Plan. For instance, the City's Comprehensive Plan only uses the term Lodging Units and it is used as follows:

Section 3.02.A. Residential

Each parcel of land within an area which is designated in a Residential land use category by the Land Use Plan must be zoned in a zoning district which permits any one or more of the following uses, but not other uses:

3. Hotels, motels and similar lodging. *The maximum number of hotel, motels or similar lodgings units permitted on any parcel designated for residential uses is double the maximum number of dwelling units designated for the parcel of land by the City's Land Use Plan Map.*

While the Comprehensive Plan uses the term *Lodging Units*, the City's Zoning Code uses the terms Guest Unit, Sleeping Rooms, and Lodging Unit. Ord. 1991-63 added a definition of Sleeping Room to the old zoning code and it clarified that a Sleeping Room could be a single room or a suite of rooms. This definition was not carried over into the revised Zoning Code. Regardless, it continues to be the practice of the City that any room accessible via a lock-out key is treated as a separate "lodging unit" for purposes of Land Use and Zoning.

Therefore in an effort to use one term consistently in both the City's Comprehensive Plan and Zoning Code, the proposed text amendments replace sleeping room and guest room with Lodging Unit and create a definition for Lodging Unit.

Proposed Text Amendments

The proposed text amendments are a result of the analysis. An explanation of the text amendments is below:

§155.4225.A.2	<ul style="list-style-type: none"> • Revise definition of Apartment Hotel to clarify that the units are owned under a condominium ownership, that the owner may occupy the unit on a limited basis, and that the primary purpose is for vacation accommodation use. • Use term "Lodging Unit" and clarify that each lock out room is a separate lodging unit
§155.4225.A.3.a	<ul style="list-style-type: none"> • New use standard limiting the length of stay for owners to both 30 consecutive days and a total of 180 days in a 12 month period. (Same as St Lucie County). • Length of stay language must be added to the Declaration of Condominium.
§155.4225.A.3.b	New use standard requiring a lobby.
§155.4225.A.3.c	<ul style="list-style-type: none"> • New use standard requiring a management operation plan which includes rental activities, uniform key entry service, customary daily maid services, back of house services, and other hospitality services. • Management requirement language must be added to the Declaration of Condominium.
§155.4225.A.3.d	Prohibit the conversion to residential use unless the density and land use are consistent with the Comprehensive Plan and all zoning regulations are met.
§155.4225.A.3.e	Change sleeping rooms to lodging units and delete reference to motel
§155.4225.B.2	Revise definition of Bed and Breakfast to use term "Lodging Unit"
§155.4225.C.2	<ul style="list-style-type: none"> • Revise definition of Hotel or Motel to use term "Lodging Unit" • Clarify that each lock out room is a separate lodging unit
§155.5102.D.1	<ul style="list-style-type: none"> • Replace all references to Guest Rooms to Lodging Units • Increase the off-street parking requirements for apartment hotels lodging units that have at least one bedroom from 1 to 1.25 per lodging unit. The increase .25 parking space per lodging unit will accommodate the visitor and additional parking generated by larger units occupied for longer lengths of stay.
§155.5102.D.1	Replace guest rooms with Lodging Units
Article 9 / Part 5	<ul style="list-style-type: none"> • Revise Definitions for Apartment Hotel, Bed and Breakfast, hotel or Motel • Create new defined term – Lodging unit.

Comments received from the City's Redevelopment Agency are enclosed for your reference.

Staff's Request

Staff is requesting the Board approve the recommended changes to the Zoning Code to the City Commission for adoption.

§ 155.4225. COMMERCIAL: VISITOR ACCOMODATION USES

A. APARTMENT HOTEL

...

2. Definition

An apartment hotel is a building or part thereof used for and containing both individual hotel sleeping rooms and dwelling units (often furnished) generally designed for temporary occupaney (often for a week or longer). An apartment hotel often includes hotel-like service and booking system. This use does not include hotels, which exclusively or predominantly rent sleeping rooms rather than fully fitted dwelling units and generally for shorter time periods.

An apartment hotel is a hotel comprised of lodging units that are owned by an individual, corporation, or any other legal entity having an ownership interest under condominium form of ownership, and is part of a condominium property or parcel and the building contains individual lodging units which may be occupied on a limited basis by the lodging unit owner, but whose primary purpose is a visitor accommodation use. Each room which is accessible by a lock-out key is considered a separate Lodging Unit for purposes of Zoning and Land Use.

3. Standards

An apartment hotel shall comply with the following standards:

- a. Owner-occupation.** Lodging units shall not be occupied by their owner(s) for more than 30 consecutive days and no more than a total of 180 days in any consecutive 12 month period. The restriction on owner-occupation shall be included in the Declaration of Condominium.
- b. Lobby required.** The design of the apartment hotel shall include an inner lobby that is internally oriented and which requires all tenants to pass through in order to gain access to the lodging units.
- c. Management Operation.** A unified management operation plan shall be required as an integral part of the apartment hotel facility for rental activities, including a uniform key entry service, customary daily maid services, back of house services, and other hospitality services. The management operation plan shall be included in the Declaration of Condominium.
- d. Conversion to Residential Use.** The future conversion of an apartment hotel to a residential use is prohibited unless it is determined the conversion is in compliance with the Land Use Plan and all development standards for residential uses, including but not limited to height and off-street parking, are met.
- a.e.** Only apartment hotels with at least 25 sleeping rooms lodging units may have an eating or drinking establishment as an accessory use, and no more than 20 percent of the gross floor area of such an apartment hotel or motel may be devoted to eating and drinking establishments as an accessory use. The eating or drinking establishments(s) may have a patron entrance from outside the principal building.
- b.f.** Up to 15 percent of the gross floor area of an apartment hotel may be devoted to business-related accessory uses other than eating or drinking establishments—including conference and meeting rooms, business centers, retail services such as newsstands and gift shops, and similar uses. Such uses may have a patron entrance from outside the principal building.

...

B. BED AND BREAKFAST INN

...

2. Definition

A bed and breakfast inn is a state-licensed private single-family dwelling engaged in renting one or more sleeping rooms lodging units on a daily basis and providing them breakfast.

...

C. HOTEL or MOTEL

...

2. Definition

A hotel or motel is a state-licensed building or a group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupancy by persons on an overnight basis. Such uses may include kitchenettes, microwaves, and refrigerators for each guest lodging unit. Each room which is accessible by a lock-out key is considered a separate Lodging Unit for purposes of Zoning and Land Use. Accessory uses may include, but are not limited to, restaurants, bars or lounges, nightclubs, conference and meeting rooms, business centers, newsstands, gift shops, sale of tanning products, rental of beach chairs and umbrellas, exercise and fitness facilities, swimming pools, etc., subject to any applicable use-specific standards. This use type does not include apartment hotels, bed and breakfast inns, or rooming or boarding houses. Hotels and motels are considered synonymous uses.

§ 155.5102. OFF-STREET PARKING AND LOADING

...

D. OFF-STREET PARKING SPACE REQUIREMENTS

1. Minimum Number of Off-Street Parking Spaces

...

TABLE 155.5102.D.1: MINIMUM NUMBER OF OFF-STREET PARKING SPACES

Use Category	Use Type	Minimum Number of Parking Spaces	
Visitor Accommodation Uses	<u>Apartment Hotel</u>	<u>1 per guest room</u>	
	<u>Apartment Hotel</u>	<u>Lodging Unit without separate bedroom</u>	<u>1 per lodging unit</u>
		<u>Lodging Unit with one or more bedrooms</u>	<u>1.25 per lodging unit</u>
	Bed and Breakfast inn	<u>2 + 1 per guest room-lodging unit</u>	
	<u>Hotel or Motel</u>	<u>100 guest rooms-lodging units or less</u>	<u>1 per guest room-lodging unit</u>
		<u>101 to 150 guest rooms lodging units</u>	<u>0.85 per guest room-lodging unit</u>
		<u>More than 150 guest rooms-lodging units</u>	<u>0.7 per guest room-lodging unit</u>

3. Multiple Use Developments

...

- b. Where more than 20 percent of the total gross floor area of a hotel or motel or an apartment hotel is occupied by non-sleeping or non-dwelling principal or accessory uses (e.g., office, retail, service, restaurant, bar, nightclub, ballrooms, banquet rooms, meeting rooms), off-street parking shall be provided for each such use in an amount equal to 50 percent of the parking requirement applicable to the use if it were an individual principal use—except that where a hotel contains 50 or more guest rooms lodging units and a restaurant and/or bar advertised by exterior signage, off-street parking shall be for such restaurant and/or bar in an amount equal to 75 percent of the parking requirement(s) applicable to a restaurant and/or bar as a principal use.

...

ARTICLE 9: DEFINITIONS AND INTERPRETATION

PART 5 TERMS AND USES DEFINED

...

Apartment Hotel

~~A building or part thereof used for and containing both individual hotel sleeping rooms and dwelling units (often furnished) generally designed for temporary occupancy (often for a week or longer). An apartment hotel often includes hotel-like service and booking system. This use does not include hotels, which exclusively or predominantly rent sleeping rooms rather than fully fitted dwelling units and generally for shorter time periods.~~

A hotel comprised of lodging units that are owned by an individual, corporation, or any other legal entity having an ownership interest under condominium form of ownership, and is part of a condominium property or parcel and the building contains individual lodging units which may be occupied on a limited basis by the lodging unit owner, but whose primary purpose is a visitor accommodation use. Each apartment hotel room accessible by a lock-out key shall be considered one lodging unit for purposes of land use and zoning.

...

Bed and Breakfast Inn

A state-licensed private single-family dwelling engaged in renting one or more sleeping rooms lodging units on a daily basis and providing them breakfast.

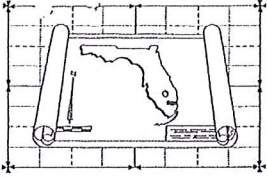
...

Hotel or Motel

A hotel or motel is a state-licensed building or a group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupancy by persons on an overnight basis. Such uses may include kitchenettes, microwaves, and refrigerators for each guest lodging unit. Each hotel room accessible via a lock-out key shall be considered one lodging unit for purposes of land use and zoning. Accessory uses may include, but are not limited to, restaurants, bars or lounges, nightclubs, conference and meeting rooms, business centers, newsstands, gift shops, sale of tanning products, rental of beach chairs and umbrellas, exercise and fitness facilities, swimming pools, etc., subject to any applicable use-specific standards. This use type does not include apartment hotels, bed and breakfast inns, or rooming or boarding houses. Hotels and motels are considered synonymous uses.

Lodging Unit

A unit located within a visitor accommodation use and which may be composed of a single room or suite of several rooms and which has its own key. Each room which is accessible by a lock-out key is considered a separate Lodging Unit for purposes of Zoning and Land Use.



BROWARD COUNTY PLANNING COUNCIL

115 South Andrews Avenue, Room 307 ■ Fort Lauderdale, Florida 33301 ■ Phone: 954.357.6695

March 26, 2014

Stephanie Toothaker, Esq.
Tripp Scott
110 Southeast 6 Street, 15th Floor
Fort Lauderdale, Florida 33301

Dear Ms. Toothaker:

This letter is in response to your correspondence dated March 17, 2014, in which you requested confirmation regarding the density/intensity of an "apartment hotel" unit, and a determination as to whether the proposed project complies with the City of Pompano Beach's Residential High land use category.

In your correspondence you indicate that the current proposal is to develop the approximately 4.61 gross acre site with 130 condominium units, 4 townhouse units and 98 "apartment hotel" units together with accessory uses including a spa and boat slips. You specifically requested confirmation that the proposed "apartment hotel" units should be evaluated at a density equivalency of two hotel rooms equals one dwelling unit.

Based on information provided by you, Planning Council staff considers an "apartment hotel" unit and "condo hotel" unit to be one in the same (referred to as "condo hotel" in this document). Planning Council staff, in consultation with the Planning Council Attorney and the Broward County Office of the County Attorney, notes that "condo hotel" units are considered to be a hotel use calculated as two hotel rooms equals one dwelling unit, subject to confirmation by the local municipality that their regulations prohibit the conversion of "condo hotel" units to full time owner or renter occupied dwelling units, and that the "condo hotel" units will be available for a majority of the year for hotel guests. Otherwise, a "condo hotel" unit is considered a residential use and counts as one dwelling unit per condo unit.

Regarding your request as to whether the project complies with the City of Pompano Beach's Residential High land use category, Planning Council staff notes that the City of Pompano Beach Comprehensive Plan is the effective land use plan for the City of Pompano Beach. That plan designates the area covered by this plat for the uses permitted in the "High (25-46) Residential" land use category. Planning Council staff calculations indicate that the maximum number of dwelling units (or equivalents) that could be permitted per the effective land use plan is 212. The specific dwelling unit and "apartment hotel" scenario are subject to the City of Pompano Beach's implementation of its certified land use plan and must be determined by the same.

Stephanie Toothaker, Esq.

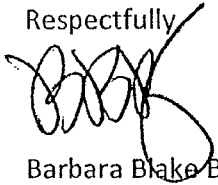
March 26, 2014

Page Two

The contents of this letter are not a judgment as to whether this proposed use is in compliance with any applicable Broward County development regulations or the development review requirements, including any environmental purview.

Please contact me or Pete Schwarz, of Planning Council staff if you have any additional questions in this regard.

Respectfully



Barbara Blake Boy
Executive Director

BBB:PMS

cc: Andrew Maurodis, Esq., Counsel
Broward County Planning Council

Maite Azcoitia, Esq., Deputy County Attorney
Broward County Office of the County Attorney

Dennis Beach, City Manager
City of Pompano Beach

Robin Bird, Director, Development Services Department
City of Pompano Beach

City	Limitation on Length of Stay	Lobby	Management
Hollywood	150 days per consecutive 12-month period	Shall be a lobby/front desk area that is internally oriented and must be operated as a hotel/motel.	A unified manager an integral part of t activities. A uniform key entry or hotel staff to rec condo-hotel room.
Lauderdale By The Sea	Not specified	maintains an inner lobby through which all tenants must pass to gain access to the apartments,	
Deerfield Beach	Not specified	maintains an inner lobby through which all tenants must pass to gain access to the apartments,	
West Palm Beach	6 months per consecutive 12-month period	Shall be a lobby/front desk area that is internally oriented and must be operated as a hotel	A central manager shall be required as facility for the renta
Palm Beach	6 months per consecutive 12-month period	Shall be a lobby/front desk area that is internally oriented and must be operated as a hotel.	A central manager shall be required as facility for the renta
St Lucie County	<ul style="list-style-type: none"> • If more than 75% of the units are condo-hotel units: 56 days per calendar year • If more than 50% of the units, but no more than 75% of the units are condo-hotel units: 30 consecutive days and no more than 90 total days per calendar year. • If no more than 50% of the units are condo-hotel units: 30 consecutive days and no more than 180 total days in any calendar year. 	Not specified	<ul style="list-style-type: none"> • A single qualified maintain and ope • The management services to all ow • all persons retir in and check-out system operated
Fort Pierce	28 days per calendar year.	Shall provide an internally-oriented lobby/front desk area.	A uniform key entry resort hotel operatc each condo-hotel s
Venice	6 months per calendar year.	Not specified	
Palm Springs, CA	75 days per consecutive 12-month period AND no more than 28 consecutive days.	Shall be a lobby/front desk area where all guests and condo hotel unit owners must register with the hotel operator upon arrival and departure, as in a hotel or resort hotel	A unified manager an integral part of t activities. A uniform key entry condominium hotel keys for each cond
South Lake Tahoe, NV	30 days per calendar year	Not specified	A single qualified p maintain and opera management entity services to all owne



P. O. Drawer 1300
Pompano Beach, FL 33061


Phone: (954) 786-5535
Fax: (954) 786-7836

MEMORANDUM

DATE: July 12, 2016

TO: Robin Bird, Director of Development Services
Jennifer Gomez, Assistant Director of Development Services

FROM: Max Wemyss, CRA/RMA Planning and Urban Design Assistant
Natasha Alfonso-Ahmed, RMA Urban Design Director

THRU: Kim Briesemeister, CRA Executive Director 
Chris Brown, CRA Executive Director

RE: **Memo 16-287** – 155.4225.A: Apartment Hotels

Background:

The CRA has not been involved in the development of this proposed code amendment.

CRA Comment:

This item requires legal involvement prior to execution.

Proposed Action:

The CRA is requesting a meeting with staff to better understand the intent of the code changes and any potential impact on CRA redevelopment goals and objectives. In addition, the CRA is requesting two weeks to further review the proposed amendment language and provide comment since a majority of the requests for “condo hotels”, referred to as “apartment hotels” in the memo and code, are in the East CRA area.

cc: CRA Attorney
City Attorney



P. O. Drawer 1300
Pompano Beach, FL 33061

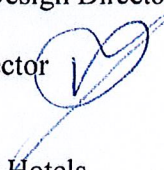
Phone: (954) 786-5535
Fax: (954) 786-7836

MEMORANDUM

DATE: July 27, 2016

TO: Robin Bird, Director of Development Services
Jennifer Gomez, Assistant Director of Development Services

FROM: Max Wemyss, CRA/RMA Planning and Urban Design Assistant
Natasha Alfonso-Ahmed, RMA Urban Design Director

THRU: Kim Briesemeister, CRA Executive Director
Chris Brown, CRA Executive Director 

RE: **Memo 16-287** – 155.4225.A: Apartment Hotels

Thank you for providing the 7/21/2016 meeting with Staff as the CRA requested. The additional information provided the clarity that was needed to support the proposed revisions to 155.4225.A as drafted.

CRA Position:

The CRA offers no objection to this item moving forward to implementation.

Background:

The CRA has provided comments to the proposed code amendment on July 12, 2016 and requested a meeting with Staff to address the CRA's questions. This meeting occurred 7/21/2016.

Proposed Action:

None.

cc: CRA Attorney
City Attorney