

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: October 18, 2022

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: HPB22-0538, **2701 and 2727 Indian Creek Drive, 233 27<sup>th</sup> Street and 230 28<sup>th</sup> Street. – Indian Creek Hotel.**

An application has been filed requesting a variance to reduce the minimum hotel unit size requirements.

### **RECOMMENDATION**

Approval of the variance request.

### **BACKGROUND**

On May 10, 2022, the Historic Preservation Board approved a Certificate of Appropriateness (HPB22-0501) for the partial demolition, renovation and restoration of the building located at 233 27th Street including the construction of an attached addition, the partial demolition, renovation, restoration and relocation of the building located at 230 28th Street, the total demolition of an accessory kitchen building, one or more waivers and variances from the required setbacks. The variance request from the minimum hotel unit size was withdrawn without prejudice.

### **EXISTING STRUCTURES**

Local Historic District: Collins Waterfront

#### **2701 Indian Creek Drive**

Classification: Contributing  
Construction Date: 1932  
Architect: Russell T. Pancoast

#### **Detached addition**

Classification: Non-Contributing  
Construction Date: 2015  
Architect: William Lane

#### **2727 Indian Creek Drive**

Classification: Contributing  
Construction Date: 1936  
Architect: George L. Pfeiffer

**233 27<sup>th</sup> Street**

Classification: Contributing  
Construction Date: 1935  
Architect: Henry Hohausner

**230 28<sup>th</sup> Street**

Classification: Contributing  
Construction Date: 1922  
Architect: Not Listed

**ZONING / SITE DATA**

**Legal Description:**

**Parcel 1 (2701 Indian Creek Drive)**

Lots 11 & 12, Block 9, of the Miami Beach Improvement Co Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

**Parcel 2 (2727 Indian Creek Drive)**

Lots 9 & 10, Block 9, of the Miami Beach Improvement Co Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

**Parcel 3 (233 27<sup>th</sup> Street)**

Lot 8, Block 9, of the Miami Beach Improvement Co Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

**Parcel 4 (230 28<sup>th</sup> Street)**

Lot 7, Block 9, of the Miami Beach Improvement Co Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

Zoning: RM-2, Residential multi-family, medium intensity  
Future Land Use Designation: RM-2, Residential multi-family, medium intensity

**THE PROJECT**

The applicant has submitted plans entitled “New Addition for: Indian Creek Hotel”, as prepared by Charles H. Benson & Associates Architects, P.A., dated July 18, 2022.

**COMPLIANCE WITH ZONING CODE**

The application as submitted, appears to be consistent with the requirements of the City Code, with the exception of the variance requested herein and the variances previously granted by the Board (HPB22-0501).

This shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

#### **CONSISTENCY WITH 2040 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the hotel use is **consistent** with the Future Land Use Map of the Comprehensive Plan.

#### **PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

- That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
- That the special conditions and circumstances do not result from the action of the applicant;
- That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;
- That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.
- The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

#### **COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA**

Section 133-50(a) of the Land Development establishes review criteria for sea level rise and resiliency that must be considered as part of the review process for board orders. The following is an analysis of the request based upon these criteria:

- (1) A recycling or salvage plan for partial or total demolition shall be provided.  
**Not Applicable**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Not Applicable**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Not Applicable**
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.  
**Not Applicable**
- (5) The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.  
**Not Applicable**
- (6) The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.  
**Not Applicable**
- (7) In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.  
**Not Applicable**
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.  
**Not Applicable**
- (9) When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.  
**Not Applicable**
- (10) In all new projects, water retention systems shall be provided.  
**Not Applicable**
- (11) Cool pavement materials or porous pavement materials shall be utilized.  
**Not Applicable**

- (12) The project design shall minimize the potential for a project causing a heat island effect on site.

**Not Applicable**

### **VARIANCE ANALYSIS**

The applicant is requesting the following variance:

1. A variance from the minimum required hotel unit size: 15% of the hotel units shall be between 300 and 335 sq. ft. and 85% of units shall be larger than 335 sq. ft., in order to permit 25 hotel units (21%) with a size less than 300 sq. ft. Variance requested from:

**Sec. 142-217. – Area requirements.**

*The area requirements in the RM-2 residential multifamily, medium intensity district are as follows:*

**Minimum Unit Size (Square feet), Hotel units: 15%: 300-335, 85%: 335+**

On May 10, 2022 the Historic Preservation Board approved the design of a new 7-story detached addition as part of the redevelopment of the site. As part of that application, the applicant was requesting a variance to reduce the hotel room sizes for 93% of the proposed 144 hotel units. During the hearing, this variance was withdrawn without prejudice, at the request of the application. Since that time, the applicant has reevaluated the hotel unit configuration resulting in a 26-unit reduction. The applicant is currently requesting a variance to provide 25 hotel units ranging in size from 241-288 sq. ft. (approximately 21% of the 118 hotel units currently proposed).

The RM-2 zoning district allows the reconfiguration of hotel units with a minimum area of 200 sq. ft. when such units are within an existing structure and located in a local historic district. Also, for rooftop additions to contributing buildings, new hotel units with a minimum area of 200 sq. ft. are permitted. In this case, the new construction is a detached addition and the minimum unit size of 200 sq. ft. would not apply.

The existing configuration of the four Contributing buildings arranged around a historically significant courtyard creates practical difficulties with regard to providing additional hotel units on the property. The size of the new hotel units would not adversely impact the character of the existing structures or the surrounding historic district. Further, the vast majority of the proposed hotel units within the addition exceed 300 square feet. In summary, staff recommends approval of the variance as proposed.

### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends the request for a variance be **approved**, subject to the conditions enumerated in the attached draft Order.

**HISTORIC PRESERVATION BOARD**  
**City of Miami Beach, Florida**

MEETING DATE: October 18, 2022

PROPERTY/FOLIO: 2701 Indian Creek Drive / 02-3226-001-0920  
2727 Indian Creek Drive / 02-3226-001-0910  
233 27<sup>th</sup> Street / 02-3226-001-0900  
230 28<sup>th</sup> Street / 02-3226-001-0890

FILE NO: HPB22-0538

IN RE: An application has been filed requesting a variance to reduce the minimum hotel unit size requirements.

LEGAL: Parcel 1 (2701 Indian Creek Drive)  
Lots 11 & 12, Block 9, of the Miami Beach Improvement Co Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

Parcel 2 (2727 Indian Creek Drive)  
Lots 9 & 10, Block 9, of the Miami Beach Improvement Co Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

Parcel 3 (233 27th Street)  
Lot 8, Block 9, of the Miami Beach Improvement Co Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

Parcel 4 (230 28th Street)  
Lot 7, Block 9, of the Miami Beach Improvement Co Subdivision, according to the Plat Thereof, as Recorded in Plat Book 5, Page 7, of the Public Records of Miami-Dade County, Florida.

**ORDER**

The City of Miami Beach Historic Preservation Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

**I. Certificate of Appropriateness**

A. A Certificate of Appropriateness has not been filed as part of this application.

**In accordance with Section 118-537, the applicant, the owner(s) of the subject property, the City Manager, Miami Design Preservation League, Dade Heritage Trust, or an affected person may appeal the Board's decision on a Certificate of Appropriateness to a special master appointed by the City Commission.**

## II. Variance(s)

- A. The applicant filed an application with the Planning Department for the following variance(s) which were either approved by the Board with modifications, or denied:

The following variance(s) was **approved** by the Board

1. A variance from the minimum required hotel unit size: 15% of the hotel units shall be between 300 and 335 sq. ft. and 85% of units shall be larger than 335 sq. ft., in order to permit 25 hotel units with a size less than 300 sq. ft.

- B. The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts allowing the granting of a variance if the Board finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district;

That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

The granting of the variance will result in a structure and site that complies with the sea level rise and resiliency review criteria in chapter 133, article II, as applicable.

- C. The Board hereby **Approves** the requested variance and imposes the following conditions based on its authority in Section 118-354 of the Miami Beach City Code:
1. Substantial modifications to the plans submitted and approved as part of the application, as determined by the Planning Director or designee, may require the applicant to return to the Board for approval of the modified plans, even if the modifications do not affect variances approved by the Board.

**The decision of the Board regarding variances shall be final and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari.**

**III. General Terms and Conditions applying to both 'I. Certificate of Appropriateness' and 'II. Variances' noted above.**

- A. The applicant agrees and shall be required to provide access to areas subject to this approval (not including private residences or hotel rooms) for inspection by the City (i.e.: Planning, Code Compliance, Building Department, Fire Safety), to ensure compliance with the plans approved by the Board and conditions of this order.
- B. The issuance of a building permit is contingent upon meeting Public School Concurrency requirements, if applicable. Applicant shall obtain a valid School Concurrency Determination Certificate (Certificate) issued by the Miami-Dade County Public Schools. The Certificate shall state the number of seats reserved at each school level. In the event sufficient seats are not available, a proportionate share mitigation plan shall be incorporated into a tri-party development agreement and duly executed. No building permit may be issued unless and until the applicant obtains a written finding from Miami-Dade County Public Schools that the applicant has satisfied school concurrency.
- C. The relocation of any tree shall be subject to the approval of the Environment & Sustainability Director and/or Urban Forester, as applicable.
- D. Where one or more parcels are unified for a single development, the property owner shall execute and record a unity of title or a covenant in lieu of unity of title, as may be applicable, in a form acceptable to the City Attorney.
- E. All applicable FPL transformers or vault rooms and backflow prevention devices shall be located within the building envelope with the exception of the valve (PIV) which may be visible and accessible from the street.
- F. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit and shall be located immediately after the front cover page of the permit plans.
- G. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.



- H. Satisfaction of all conditions is required for the Planning Department to give its approval on a Certificate of Occupancy; a Temporary Certificate of Occupancy or Partial Certificate of Occupancy may also be conditionally granted Planning Departmental approval.
- I. The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.
- J. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- K. Nothing in this order authorizes a violation of the City Code or other applicable law, nor allows a relaxation of any requirement or standard set forth in the City Code.
- L. Upon the issuance of a final Certificate of Occupancy or Certificate of Completion, as applicable, the project approved herein shall be maintained in accordance with the plans approved by the board and shall be subject to all conditions of approval herein, unless otherwise modified by the Board. Failure to maintain shall result in the issuance of a Code Compliance citation, and continued failure to comply may result in revocation of the Certificate of Occupancy, Completion and Business Tax Receipt.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations, which were amended and adopted by the Board, that the application is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph I, II, III of the Findings of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the plans entitled "**New Addition for: Indian Creek Hotel**", as prepared by **Charles H. Benson & Associates Architects, P.A.**, dated **July 18, 2022**, as approved by the Historic Preservation Board, as determined by staff.

When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order. No building permit may be issued unless and until all conditions of approval that must be satisfied prior to permit issuance, as set forth in this Order, have been met.

The issuance of the approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including final zoning approval. If adequate handicapped access is not provided on the Board-approved plans, this approval does not mean that such handicapped access is not required. When requesting a building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting

date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code; the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project should expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

In accordance with Chapter 118 of the City Code, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations of the City Code. Failure to comply with this **Order** shall subject the application to Chapter 118 of the City Code, for revocation or modification of the application.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

HISTORIC PRESERVATION BOARD  
THE CITY OF MIAMI BEACH, FLORIDA

BY: \_\_\_\_\_  
DEBORAH TACKETT  
HISTORIC PRESERVATION & ARCHITECTURE OFFICER  
FOR THE CHAIR

STATE OF FLORIDA            )  
  )SS  
COUNTY OF MIAMI-DADE    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ by Deborah Tackett, Historic Preservation & Architecture Officer, Planning Department, City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the corporation. She is personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC  
Miami-Dade County, Florida  
My commission expires: \_\_\_\_\_

Approved As To Form:  
City Attorney's Office: \_\_\_\_\_ (                    )

Filed with the Clerk of the Historic Preservation Board on \_\_\_\_\_ (                    )