

# MIAMI BEACH

## PLANNING DEPARTMENT

### Staff Report & Recommendation

### Historic Preservation Board

TO: Chairperson and Members  
Historic Preservation Board

DATE: January 12, 2021

FROM: Thomas R. Mooney, AICP  
Planning Director

SUBJECT: HPB20-0379, **2901-2911 Indian Creek Drive.**

An application has been filed requesting a Certificate of Appropriateness for the total demolition of two existing buildings, the renovation, restoration and relocation of one existing building, the construction of a detached residential addition and multiple variances from the required pedestal and tower setbacks and to exceed the maximum projection allowed in required yards.

#### **STAFF RECOMMENDATION**

**Approval** of the Certificate of Appropriateness with conditions

**Approval** of variances #1, #2 and #3

**Approval with modifications** of variances #4, #5, #6, #7 and #8

#### **EXISTING STRUCTURES**

Local Historic District: Collins Waterfront

#### **2901 Indian Creek Drive**

Classification: Contributing  
Construction Date: 1962  
Architect: Gerard Pitt

#### **2911 Indian Creek Drive (front of lot)**

Classification: Contributing  
Construction Date: 1936  
Architect: Schoeppl & Southwell

#### **2911 Indian Creek Drive (rear of lot)**

Classification: Contributing  
Construction Date: 1938  
Architect: Arnold Southwell

#### **ZONING / SITE DATA**

Legal Description: **Parcel 1 (2901 Indian Creek Drive):** Lot 17 and tract opposite same facing Indian Creek, Block 12, Miami Beach Improvement Company 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 (2911 Indian Creek Drive):** Lot 16 and tract opposite same facing Indian Creek, Block 12, Miami Beach Improvement Company 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
Lot Size:	15,000 S.F. / 2.0 Max FAR
Existing FAR:	Not provided
Proposed FAR:	29,998 S.F. / 1.99 FAR
Existing Height:	22'-9", 2-stories
Proposed Height:	71'-4", 6-stories
Existing Use/Condition:	Multi-family residential
Proposed Use:	No change

### **THE PROJECT**

The applicant has submitted plans entitled "29 Indian Creek", as prepared by Urban Robot Associates, dated November 9, 2020.

The applicant is requesting the following variance(s):

1. A variance to reduce by 4'-4" the minimum required pedestal front setback of 20'-0" in order to relocate a Contributing building for a new residential development and provide a setback of 15'-8" from the front property line facing Indian Creek Drive.

Variance 1 is requested from:

#### **Sec. 142-218. Setback requirements.**

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

**Subterranean and Pedestal, Front: 20 Feet.**

The project proposes the relocation of the contributing building with a 15'-8" setback from the front property line and a new 6-story residential ground level addition to the rear. The proposed setback is consistent with the existing setbacks of the adjacent buildings along the block, and compatible with the character of the neighborhood and low scale massing of the historic area. Staff has no objections to this variance request which will allow the more efficient development of the site, while preserving the historic character of the neighborhood. The retention of the low-scale contributing building creates the practical difficulties that result in the variance request.

2. A variance to reduce by 7'-6" the minimum required tower rear setback of 22'-6" for a new residential development and provide a tower setback of 15'-0" from the rear property line.
3. A variance to reduce by 0'-5" the minimum required tower interior side setback of 12'-7"

for a new residential development and provide a tower setback of 12'-2" from the interior north side property line.

Variances 2 and 3 are requested from:

**Sec. 142-218. Setback requirements.**

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

*Tower, Rear: Non-oceanfront lots—15% of lot depth*

*Tower, Side Interior: same as pedestal for structure with a total height of 60 feet or less. The required pedestal setback plus 10% of the height of the tower portion of the building. The total required setback shall not exceed 50 feet.*

The project complies with the pedestal setbacks on all sides. However, the city code requires larger setbacks on the interior side and rear at the tower levels, above 50'-0" in height. The new 6-story addition is proposed with the same pedestal and tower setbacks along the rear and on the interior north side. Because the contributing 2-story building is located at the front with no attached additions, the available area for development at the rear is limited. Staff finds that the retention of the contributing building creates the practical difficulties that contribute to the variance requests. Staff would also note that the proposed setbacks on the sides and rear would not have a negative impact on the adjacent buildings or the historic neighborhood, as the reduction occurs above 50'-0" in height and these proposed setbacks are larger than the typical setbacks in the historic district. As such, staff would recommend approval of variance #2 and #3.

4. A variance to exceed by 3'-11" (39%) the maximum allowed projection of 2'-6" (25%) for balconies within the side yard of 10'-0" at pedestal level in order to construct a new building with balcony projection of 6'-5" (64%) into the north side yard.
5. A variance to exceed by 3'-8" (36.6%) the maximum allowed projection of 2'-6" (25%) for balconies within the street side yard of 10'-0" at pedestal and tower levels in order to construct a new building with balcony projection of 6'-2" (61.6%) into the south side yard.
6. A variance to exceed by 4'-5" (29.4%) the maximum allowed projection of 3'-9" (25%) for balconies within the rear yard of 15'-0" at pedestal level in order to construct a new building with balcony projection of 8'-2" (54.4%) into the rear yard.
7. A variance to exceed by 5'-11" (47%) the maximum allowed projection of 3'-1" (25%) for balconies within the side yard of 12'-7" at tower level in order to construct a new building with balcony projection of 9'-0" (72%) into the north side yard.
8. A variance to exceed by 10'-1" (44.6%) the maximum allowed projection of 5'-7" (25%) for balconies within the rear yard of 22'-6" at tower level in order to construct a new building with balcony projection of 15'-8" (69.6%) into the rear yard.

Variances 4 – 8 are requested from:

**Sec. 142-1132. - Allowable encroachments within required yards.**

*(o) Projections. In all districts, every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into*

*a required yard for a distance not to exceed 25 percent of the required yard up to a maximum projection of six feet.*

*(4)Exterior unenclosed private balconies.*

The proposed new building includes wrap-around balconies on all sides with portions that exceed the maximum projection allowed into the interior, street side and rear required setbacks. The Code allows a maximum balcony projection of 6'-0". The variation in width of the projecting balconies provide movement to the facades that enhances the design of the building. While staff is generally supportive of balcony design, the close proximity of the balconies to the interior and street side property lines is excessive and will limit the potential for the growth of substantial landscaping in these areas. Consequently, staff recommends that the balcony projections be reduced to a maximum of 40% projection into the interior and street side yards, and 50% projection into the rear yard. Due to the limitations and practical difficulties placed on the property with the renovation and restoration of the contributing building on the site, staff is supportive of variances for the maximum balcony projections, modified as noted.

#### **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 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 ZONING CODE**

A preliminary review of the project indicates that the application appears to be inconsistent with the following section of the City Code, in addition to the variances requested herein:

#### **Section 130-38 - Mechanical and robotic parking systems.**

An application for the proposed mechanical parking is required to be reviewed and approved by the Planning Board prior to the issuance of a building permit.

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 2025 COMPREHENSIVE PLAN**

A preliminary review of the project indicates that the proposed **multi-family residential** use is **consistent** with the Future Land Use Map of the Comprehensive Plan.

### **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 Satisfied**  
**A recycling or salvage plan has not been submitted. Additional information shall be provided at the time of building permit review.**
- (2) Windows that are proposed to be replaced shall be hurricane proof impact windows.  
**Satisfied**  
**The windows proposed to be replaced will be impact resistant.**
- (3) Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.  
**Satisfied**
- (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.  
**Satisfied**
- (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.  
**Satisfied**  
**The applicant is proposing to relocate and elevate the remaining Contributing building to 8.67' NGVD. The first habitable floor within the new construction is**

**proposed to be located at 27.58' NGVD.**

- (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.

**Satisfied**

- (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.

**Satisfied**

- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.

**Partially Satisfied**

**The applicant is proposing to relocate and elevate the remaining Contributing on the site to 8.67' NGVD.**

- (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.

**Satisfied**

**Dry flood proofing systems will be provided for any habitable area below base flood elevation plus freeboard.**

- (10) In all new projects, water retention systems shall be provided.

**Satisfied**

**Additional information shall be provided at the time of building permit review.**

- (11) Cool pavement materials or porous pavement materials shall be utilized.

**Satisfied**

**Additional information shall be provided at the time of building permit review.**

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

**Satisfied**

**COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS CRITERIA**

A decision on an application for a Certificate of Appropriateness shall be based upon the following:

- I. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable, compliance with the following criteria pursuant to Section 118-564(a)(1) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time.

**Partially Satisfied**

**The 1936 structure is proposed to be retained, restored, elevated and relocated within the site.**

**The 1938 structure, which is not visible from the public right-of-way is proposed to be demolished.**

**The 1962 structure is proposed to be demolished due to significant structural challenges including an existing finish floor level of 4.49' NGVD.**

- b. Other guidelines/policies/plans adopted or approved by Resolution or Ordinance by the City Commission.

**Satisfied**

- II. In determining whether a particular application is compatible with surrounding properties, the Board shall consider the following criteria pursuant to Section 118-564(a)(2) of the Miami Beach Code (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. Exterior architectural features.

**Satisfied**

- b. General design, scale, massing and arrangement.

**Not Satisfied**

**The three level mechanical parking lift creates unnecessary height at the pedestal level of the new addition which results in a massing that overwhelms the relocated 2-story Contributing structure.**

- c. Texture and material and color.

**Satisfied**

- d. The relationship of a, b, c, above, to other structures and features of the district.

**Satisfied**

- e. The purpose for which the district was created.

**Partially Satisfied**

**The Contributing 1936 structure is proposed to be relocated, elevated and fully restored to its original historic condition. The Contributing 1938 and 1962 buildings are proposed to be totally demolished.**

- f. The relationship of the size, design and siting of any new or reconstructed structure to the landscape of the district.

**Satisfied**

- g. An historic resources report, containing all available data and historic documentation regarding the building, site or feature.

**Satisfied**

- h. The original architectural design or any subsequent modifications that have acquired significance.

**Partially Satisfied**

**The 1936 structure is proposed to be retained, restored, elevated and relocated within the site.**

**The 1938 structure, which is not visible from the public right-of-way is proposed to be demolished.**

**The 1962 structure is proposed to be demolished due to significant structural challenges including an existing finish floor level of 4.49' NGVD.**

III. The examination of architectural drawings for consistency with the criteria pursuant to Section 118-564(a)(3) of the Miami Beach Code and stated below, with regard to the aesthetics, appearances, safety, and function of any new or existing structure, public interior space and physical attributes of the project in relation to the site, adjacent structures and properties, and surrounding community. The criteria referenced above are as follows (it is recommended that the listed criteria be found Satisfied, Not Satisfied or Not Applicable, as so noted):

- a. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping structures, signs, and lighting and screening devices.

**Satisfied**

- b. The dimensions of all buildings, structures, setbacks, parking spaces, floor area ratio, height, lot coverage and any other information that may be reasonably necessary to determine compliance with the requirements of the underlying zoning district, and any applicable overlays, for a particular application or project.

**Not Satisfied**

**See Compliance with Zoning Code**

- c. The color, design, surface finishes and selection of landscape materials and architectural elements of the exterior of all buildings and structures and primary public interior areas for developments requiring a building permit in areas of the city identified in section 118-503.

**Satisfied**

- d. The proposed structure, and/or additions to an existing structure is appropriate to and compatible with the environment and adjacent structures, and enhances the appearance of the surrounding properties, or the purposes for which the district was created.

**Not Satisfied**

**The three level mechanical parking lift creates unnecessary height at the pedestal level of the new addition which results in a massing that overwhelms the relocated 2-story Contributing structure.**

- e. The design and layout of the proposed site plan, as well as all new and existing buildings and public interior spaces shall be reviewed so as to provide an efficient arrangement of land uses. Particular attention shall be given to safety, crime prevention and fire protection, relationship to the surrounding neighborhood, impact on preserving historic character of the neighborhood and district, contiguous and adjacent buildings and lands, pedestrian sight lines and view corridors.

**Satisfied**

- f. Pedestrian and vehicular traffic movement within and adjacent to the site shall be reviewed to ensure that clearly defined, segregated pedestrian access to the site and all buildings is provided for and that any driveways and parking spaces are usable, safely and conveniently arranged and have a minimal impact on pedestrian circulation throughout the site. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with vehicular traffic flow on these roads and pedestrian movement onto and within the site, as well as permit both pedestrians and vehicles a safe ingress and egress to the site.

**Satisfied**

- g. Lighting shall be reviewed to ensure safe movement of persons and vehicles and reflection on public property for security purposes and to minimize glare and reflection on adjacent properties and consistent with a City master plan, where applicable.

**Satisfied**

- h. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall site plan design.

**Satisfied**

- i. Buffering materials shall be reviewed to ensure that headlights of vehicles, noise, and light from Structures are adequately shielded from public view, adjacent properties and pedestrian areas.

**Not Satisfied**

**The parking garage has not been adequately buffered from the adjacent residential building to the north.**

- j. Any proposed new structure shall have an orientation and massing which is sensitive to and compatible with the building site and surrounding area and which creates or maintains important view corridor(s).

**Satisfied**

- k. All buildings shall have, to the greatest extent possible, space in that part of the ground floor fronting a sidewalk, street or streets which is to be occupied for residential or commercial uses; likewise, the upper floors of the pedestal portion of the proposed building fronting a sidewalk street, or streets shall have residential or commercial spaces, or shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of a parking structure from the surrounding area and is integrated with the overall appearance of the project.

**Satisfied**

- l. All buildings shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.

**Satisfied**

- m. Any addition on a building site shall be designed, sited and massed in a manner which is sensitive to and compatible with the existing improvement(s).  
**Not Satisfied**  
**The three level mechanical parking lift creates unnecessary height at the pedestal level of the new addition which results in a massing that overwhelms the relocated 2-story Contributing structure.**
- n. All portions of a project fronting a street or sidewalk shall incorporate an amount of transparency at the first level necessary to achieve pedestrian compatibility.  
**Satisfied**
- o. The location, design, screening and buffering of all required service bays, delivery bays, trash and refuse receptacles, as well as trash rooms shall be arranged so as to have a minimal impact on adjacent properties.  
**Satisfied**

**CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION EVALUATION CRITERIA**

Section 118-564 (f)(4) of the Land Development Regulations of the Miami Beach Code provides criteria by which the Historic Preservation Board evaluates requests for a Certificate of Appropriateness for Demolition. The following is an analysis of the request based upon these criteria:

- a. The Building, Structure, Improvement, or Site is designated on either a national or state level as a part of an Historic Preservation District or as a Historic Architectural Landmark or Site, or is designated pursuant to Division 4, Article X, Chapter 118 of the Miami Beach Code as a Historic Building, Historic Structure or Historic Site, Historic Improvement, Historic Landscape Feature, historic interior or the Structure is of such historic/architectural interest or quality that it would reasonably meet national, state or local criteria for such designation.  
**Satisfied**  
**The existing structures at 2901 & 2911 Indian Creek Drive are designated as part of the Collins Waterfront Local Historic District; all three buildings are designated as Contributing structures in the historic district.**
- b. The Building, Structure, Improvement, or Site is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.  
**Partially Satisfied**  
**The existing structure at the western portion (front) of property at 2911 Indian Creek Drive would be difficult and inordinately expensive to reproduce. The existing structures at 2901 Indian Creek Drive and the eastern portion (rear) of the property at 2911 Indian Creek Drive would not be difficult and inordinately expensive to reproduce.**
- c. The Building, Structure, Improvement, or Site is one of the last remaining examples of its kind in the neighborhood, the country, or the region, or is a distinctive example of an architectural or design style which contributes to the character of the district.  
**Satisfied**  
**All three structures on the site are one of the last remaining examples of their kind, and all structures contribute to the character of the district.**

- d. The building, structure, improvement, or site is a Contributing building, structure, improvement, site or landscape feature rather than a Non-Contributing building, structure, improvement, site or landscape feature in a historic district as defined in section 114-1, or is an architecturally significant feature of a public area of the interior of a historic or Contributing building.

**Satisfied**

**The subject buildings are classified as Contributing buildings in the Miami Beach Historic Properties Database.**

- e. Retention of the Building, Structure, Improvement, Landscape Feature or Site promotes the general welfare of the City by providing an opportunity for study of local history, architecture and design or by developing an understanding of the importance and value of a particular culture and heritage.

**Satisfied**

**The retention of the 1936 building located at 2911 Indian Creek Dr promotes the general welfare of the City by providing an opportunity for study of local history, architecture and design or by developing an understanding of the importance and value of a particular culture and heritage.**

- f. If the proposed demolition is for the purpose of constructing a parking garage, the Board shall consider it if the parking garage is designed in a manner that is consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, U.S. Department of the Interior (1983), as amended, and/or the design review guidelines for that particular district.

**Not Applicable**

**The demolition proposed in the subject application is not for the purpose of constructing a parking garage.**

- g. In the event an applicant or property owner proposes the total demolition of a Contributing structure, historic structure or architecturally significant feature, there shall be definite plans presented to the board for the reuse of the property if the proposed demolition is approved and carried out.

**Satisfied**

**The applicant has presented plans for the reuse of the property.**

- h. The Dade County Unsafe Structures Board has ordered the demolition of a Structure without option.

**Not Applicable**

**The Miami Dade County Unsafe Structures Board has not ordered the demolition of the structure.**

**STAFF ANALYSIS**

Staff would preface this analysis by noting that the existing buildings on the subject site have remained unoccupied for over 15 years, notwithstanding two separately approved major redevelopment projects that were never constructed. The subject site is comprised of two parcels containing three structures all of which are classified as contributing in the Miami Beach Historic Properties Database. The southern parcel, 2901 Indian Creek Drive, contains a 2-story apartment building constructed in 1962 and designed by Gerard Pitt in the Postwar Modern style of

architecture. The northern parcel, 2911 Indian Creek Drive, contains two structures. The western structure, adjacent to Indian Creek Drive, was constructed in 1936 and designed by Schoppel & Southwell in the Mediterranean Revival/Art Deco transitional style of architecture. The building at the rear of the lot was constructed in 1938 and designed by Arnold Southwell in the Art Deco Style of architecture.

The applicant is currently proposing to construct a new multi-family residential building on the site. In order to accommodate the addition, the applicant is proposing the total demolition of both the 1938 and the 1962 structures as well as the relocation, elevation and restoration of the 1936 building.

#### **Total demolition of the building located at 2901 Indian Creek Drive**

The existing building, which fronts on both Indian Creek Drive and 29<sup>th</sup> Street, is a typical example of the Post War Modern style with original architectural features; these include catwalks with breeze block guardrails, rounded eaves and jalousie windows and doors. In evaluating the applicant's request for total demolition, staff has taken the following information into account.

The first finished floor of the existing building is located at 4.49' NGVD. The City is currently in the process of reconstructing the Indian Creek Drive roadway and sidewalks approximately 2'-0" higher to an elevation of 5.11' NGVD. The elevation of the right-of-way will result in the first finished floor of this building being located approximately 7.5" below the new Indian Creek Drive sidewalk level.

Additionally, a structural condition assessment report, prepared by Youssef Hachem Consulting Engineering, has been submitted and includes a narrative and photographic evidence outlining the building's current structural condition. In the recommendations section of the report, the engineer concludes that the structural members of the building need to be replaced rather than repaired, which would require their demolition. After review of the engineer's assessment, staff believes that it is unlikely the existing building could be renovated and brought into compliance with the current Florida Building Code without a near total demolition and reconstruction. Staff would not recommend this option for two reasons.

First, if the existing building was reconstructed in its current location, the first finished floor would be required to be located at 9.00' NGVD, 4.51' above its current height. Given that the building was constructed along the south property line at a zero setback, there would be no room to transition to the higher elevation, resulting in an approximately 4'-6" tall wall at the property line with an additional 3'-6" guardrail on top.

Further, the Secretary of Interior's Standards for the *Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstruction of Historic Buildings* published by the U.S. Department of Interior, National Park Service 2017, only recommends reconstruction be considered as a treatment "when a contemporary depiction is required to understand and interpret a property's historic value (including the re-creation of missing components in a historic district or site); when no other property with the same associative value has survived; and when sufficient historical documentation exists to ensure an accurate reproduction. After careful consideration of the information above, staff is not opposed to the total demolition of the structure and would further note that this building was approved to be demolished by the Board in 2006.

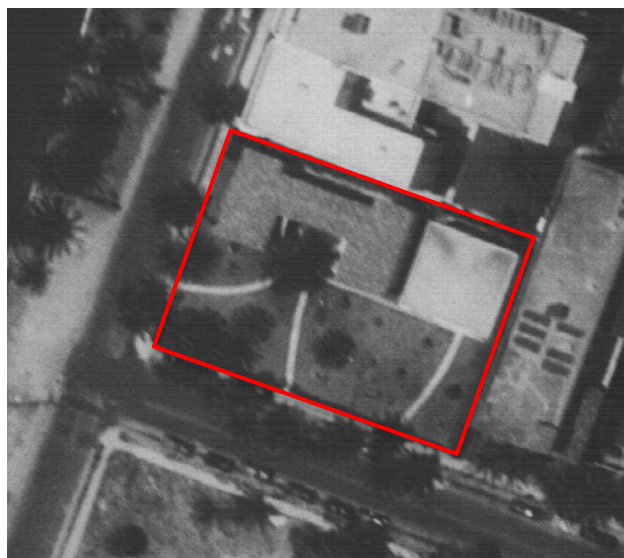
### **Total demolition of the rear building located at 2911 Indian Creek Dr**

The applicant is proposing the total demolition of the existing building constructed in 1938. This building is located at the northeast corner of the site, completely out of sight from the public right-of-way; this building has not been visible from the public row since the construction of the building located at 2901 Indian Creek Drive in 1962. Additionally, and more importantly, this modest apartment structure contains little in the way of significant architectural details. Finally, staff would note that the Board approved the total demolition of this structure in 2015, as part of a previously approved project for the site. As such, staff has no objection to the demolition of this structure.

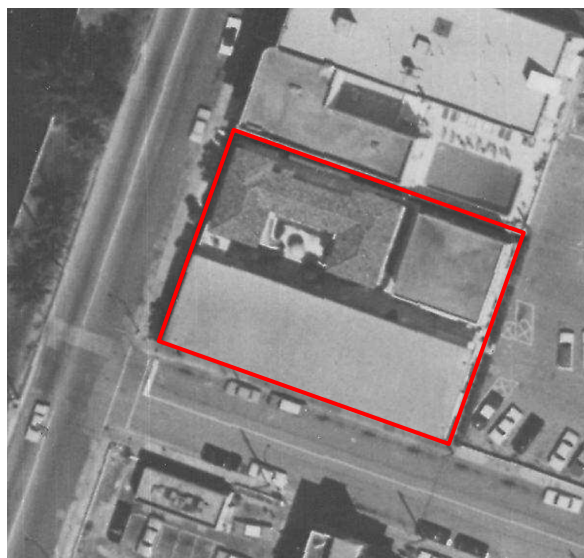
### **Relocation, elevation and restoration of the front building located at 2911 Indian Creek Drive**

The applicant is proposing to relocate and elevate the existing building located at the northwest corner of the site. This structure is currently oriented on an east-west axis with the front of the building facing south, internal to the site. In order to accommodate the new addition, the applicant is proposing to relocate the building by rotating it 90 degrees so that the primary façade fronts onto Indian Creek Drive. Additionally, the building is proposed to be elevated approximately 4'-0" resulting in a first finished floor level of 8.67' NGVD.

Further, the applicant is proposing to fully restore the exterior of the building consistent with available historical documentation including, the removal of all non-original windows and doors the replacement with new impact windows and doors, removal of all through-the-wall and through-the-window air conditioning units to be replacement with central air conditioning and the removal of the non-original elevated walkways.



1941 Aerial Photograph



1965 Aerial Photograph

Staff is highly supportive of the proposal to restore and elevate the building which will ensure its preservation for the future. Staff would, however, recommend that the first finished floor be raised an additional 0.33' to a height of 9.00' NGVD, in order to satisfy the minimum required freeboard. Further, staff would note that elevating this building is consistent with the recommended adaptation strategies identified for the Collins Waterfront Historic District in *Buoyant City – Historic District Resiliency and Adaptation Guidelines*. The Board unanimously recommended in favor of

these guidelines and they were recently adopted by the City Commission. Additionally, staff has no objection to the proposal to relocate the building on the site. As can be seen in the aerial photographs on the previous page, the front of the building (south elevation) was visible prior to the construction of the building located at 2901 Indian Creek Drive in 1962. Reorienting the building so that it is parallel to Indian Creek Drive will once again allow for the primary façade to be visible and will provide for an appropriate transition area from the proposed sidewalk level up to the elevated building.

### **New addition**

Staff is generally supportive of the contemporary design language of the proposed addition, which incorporates variations in surface materials and changes in plane. Additionally, the proposed new addition, at the rear of the site, is located directly to the south and east of properties containing buildings that are 12 and 7-stories respectively, minimizing its impact on the surrounding historic district. However, staff is concerned that as presently configured, the proposed addition has the potential to overwhelm the remaining 2-story contributing building on the site.

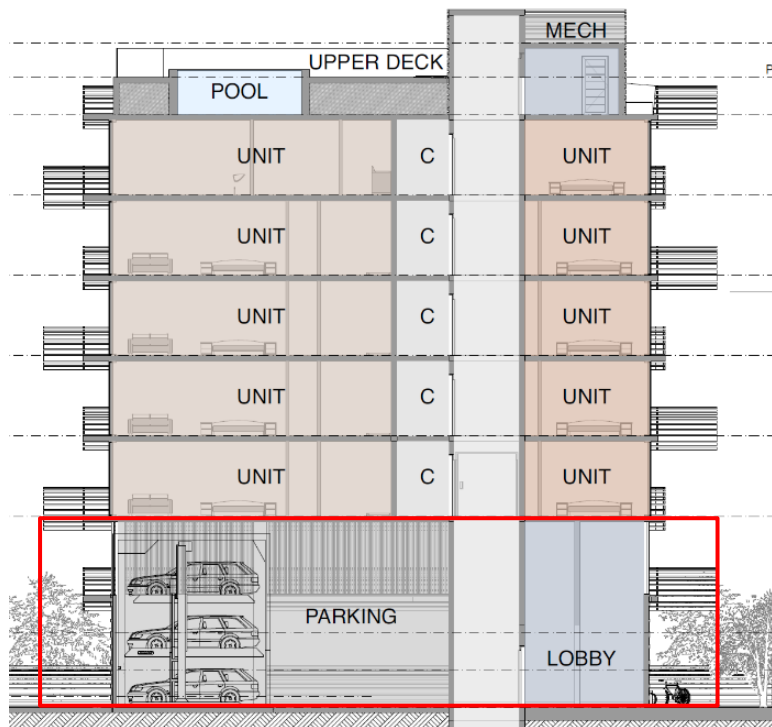
To lessen the impacts of the addition on the existing contributing building, staff recommends that the height of the ground level parking garage be reduced. In this regard, the parking pedestal is approximately 23'-0" tall to accommodate triple level mechanical parking lifts. Staff believes that the triple level parking lifts create unnecessary height and the appearance of an additional floor. In order to establish a more compatible relationship with the 2-story contributing building on the site and the contributing building adjacent to the north, staff recommends that the parking pedestal be reduced by a minimum of 7'-0".

In summary, the applicant has presented a highly developed plan for the redevelopment of the site

and staff would note that the unoccupied buildings have had an increasingly adverse impact on the developed urban context of the surrounding historic district. Staff believes that expediting the property's return to active use will greatly benefit the quality of life and character of the surrounding historic district. Staff is confident that the recommendations noted above can be addressed administratively and recommends approval of the application.

### **VARIANCE ANALYSIS**

As part of the improvements to the site, eight (8) variances are requested, as noted in the project portion of the report. Staff is supportive of the setback variances #1- #3 for the relocation of the



*Section drawing with the parking pedestal outlined in red*

contributing building and the construction of the new addition. The retention of the existing structure and the necessary setback from the new construction to comply with the Certificate of Appropriateness criteria result in practical difficulties that satisfy the criteria for approval of the variances. Variances #4 - #8, related to balcony projections, are excessive as proposed and could impact future landscape potential. In this case, staff would recommend modifying the extent of balconies to reduce the extent of projections, as reflected in the attached draft order.

### **RECOMMENDATION**

In view of the foregoing analysis, staff recommends the application be **approved** including the variance requests, as modified, subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria and Hardship and Practical Difficulties criteria, as applicable.

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

MEETING DATE: January 12, 2021

PROPERTY/FOLIO: 2901 Indian Creek Drive / 02-3226-001-1180  
2911 Indian Creek Drive / 02-3226-001-1170

FILE NO: HPB20-0379

IN RE: An application by 29 ICD, LLC for a Certificate of Appropriateness for the total demolition of two existing buildings, the renovation, restoration and relocation of one existing building, the construction of a detached residential addition and multiple variances from the required pedestal and tower setbacks and to exceed the maximum projection allowed in required yards.

LEGAL: **Parcel 1 (2901 Indian Creek Drive):** Lot 17 and tract opposite same facing Indian Creek, Block 12, Miami Beach Improvement Company 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 (2911 Indian Creek Drive):** Lot 16 and tract opposite same facing Indian Creek, Block 12, Miami Beach Improvement Company 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. The subject site is located within the Collins Waterfront Local Historic District.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted:
  - 1. Is not consistent with Sea Level Rise and Resiliency Review Criteria "1" in Section 133-50(a) of the Miami Beach Code.
  - 2. Is consistent with the Certificate of Appropriateness Criteria in Section 118-564(a)(1) of the Miami Beach Code.
  - 3. Is not consistent with Certificate of Appropriateness Criteria 'b' in Section 118-564(a)(2) of the Miami Beach Code.

4. Is not consistent with Certificate of Appropriateness Criteria 'b', 'd', 'i', & 'm' in Section 118-564(a)(3) of the Miami Beach Code.
  5. Is consistent with Certificate of Appropriateness Criteria in Section 118-564(f)(4) of the Miami Beach Code.
- C. The project would be consistent with the criteria and requirements of section 118-564 and 133-50(a) if the following conditions are met:
1. Revised elevation, site plan and floor plan drawings shall be submitted and, at a minimum, such drawings shall incorporate the following:
    - a. The existing structure on site shall be fully renovated and restored, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board; at a minimum, this shall include the following:
      - i. Final details of the relocation and elevation of the building shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board. The first habitable floor shall be located at 9.00' NGVD.
      - ii. All through-the-wall and through-the-window air conditioning units shall be removed and replaced with a central air conditioning system, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
      - iii. The existing non-original windows shall be replaced with new impact resistant casement windows and shall incorporate a muntin configuration that is consistent with available historical documentation, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
    - b. The height of the ground level parking garage shall be reduced by a minimum of 7'-0", in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
    - c. An architectural screening element shall be introduced in a manner to shield the vehicular parking area along the north side of the project, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
    - d. Final details of all exterior surface finishes and materials, including samples, shall be submitted, in a manner to be reviewed and approved by staff consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.
    - e. All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and elevation drawings and shall be screened from

view, in a manner to be reviewed and approved by staff, consistent with the Certificate of Appropriateness Criteria and/or the directions from the Board.

2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the review and approval of staff. At a minimum, such plan shall incorporate the following:
  - a. All hedge and ground cover plantings within the street facing yards shall not exceed 36" in height at maturity.
  - b. Prior to issuance of a Building Permit, the applicant shall provide a Tree Report prepared by a Certified Arborist for any existing canopy shade trees with a DBH of 3" or greater located in public or private property, which may be scheduled for removal or relocation for the review and approval of the City of Miami Beach Urban Forester.
  - c. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain.
  - d. The project design shall minimize the potential for a project causing a heat island effect on site.
  - e. Cool pavement materials or porous pavement materials shall be utilized.

**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:
  1. A variance to reduce by 4'-4" the minimum required pedestal front setback of 20'-0" in order to relocate a contributing building for a new residential development and provide a setback of 15'-8" from the front property line facing Indian Creek Drive.
  2. A variance to reduce by 7'-6" the minimum required tower rear setback of 22'-6" for a new residential development and provide a tower setback of 15'-0" from the rear property line.
  3. A variance to reduce by 0'-5" the minimum required tower interior side setback of 12'-7" for a new residential development and provide a tower setback of 12'-2" from the interior north side property line.

The following variances were approved with modifications or denied:

4. A variance to exceed by ~~3'-11" (39%)~~ 1'-6" (15%) the maximum allowed projection of 2'-6" (25%) for balconies within the side ~~4'-0"~~ yard of 10'-0" at pedestal level in order to construct a new building with balcony projection of ~~6'-5" (64%)~~ 4'-0" (40%) into the north side yard.
  5. A variance to exceed by ~~3'-8" (36.6%)~~ 1'-6" (15%) the maximum allowed projection of 2'-6" (25%) for balconies within the street side yard of 10'-0" at pedestal and tower levels in order to construct a new building with balcony projection of ~~6'-2" (61.6%)~~ 4'-0" (40%) into the south side yard.
  6. A variance to exceed by ~~4'-5" (29.4%)~~ 3'-9" (25%) the maximum allowed projection of 3'-9" (25%) for balconies within the rear yard of 15'-0" at pedestal level in order to construct a new building with balcony projection of ~~8'-2" (54.4%)~~ 7'-6" (50%) into the rear yard.
  7. A variance to exceed by ~~5'-11" (47%)~~ 3'-6" (28%) the maximum allowed projection of 3'-1" (25%) for balconies within the side yard of 12'-7" at tower level in order to construct a new building with balcony projection of ~~9'-0" (72%)~~ 6'-7" (53%) into the north side yard.
  8. A variance to exceed by ~~10'-1" (44.6%)~~ 9'-5" (42%) the maximum allowed projection of 5'-7" (25%) for balconies within the rear yard of 22'-6" at tower level in order to construct a new building with balcony projection of ~~15'-8" (69.6%)~~ 15'-0" (67%) into the rear yard.
- 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 variances 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. 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 "29 Indian Creek", as prepared by Urban Robot Associates, dated November 9, 2020**, 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  
CHIEF OF HISTORIC PRESERVATION  
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, Chief of Historic Preservation, 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 \_\_\_\_\_ ( )