

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

Historic Preservation Board

TO: Chairperson and Members
Historic Preservation Board

DATE: October 8, 2024

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: HPB24-0626 a.k.a. HPB20-0379, **2901-2911 Indian Creek Drive.**

An application has been filed requesting modifications to a previously issued Certificate of Appropriateness 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. Specifically, the applicant is requesting approval for the total demolition and reconstruction of the building previously approved to be retained and relocated on the site.

STAFF RECOMMENDATION

Approval of the modification to the previously issued Certificate of Appropriateness with conditions.

BACKGROUND

On January 12, 2021, the Board approved 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 (HPB20-0379)

On July 12, 2022, the Board approved a one-year extension of time for the previously approved project (HPB22-0523).

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
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Construction Date: 1936
Architect: Schoeppel & 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):

02-3226-001-1180

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):

02-3226-001-1170

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

THE PROJECT

The applicant has submitted plans entitled “29 Indian Creek”, as prepared by Urban Robot Associates, dated August 2, 2024.

COMPLIANCE WITH ZONING CODE

A preliminary review of the project indicates that the application appears to be consistent with the Land Development Regulations. 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.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 7.1.2.4(a)(i) of the Land Development Regulations 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 plan has not been provided.
- (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.
Satisfied
- (4) Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 4 of the Land Development Regulations.
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
- (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
To be addressed at time of building permit review.
- (8) Existing buildings shall be, where reasonably feasible and economically appropriate, elevated up to base flood elevation, plus City of Miami Beach Freeboard.
Satisfied
The first habitable floor level of the reconstructed building is proposed to be located at 9.00' 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 in General Ordinances.
Not Applicable
- (10) In all new projects, water retention systems shall be provided.
Satisfied
- (11) Cool pavement materials or porous pavement materials shall be utilized.
Satisfied
- (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 2.13.7(d)(ii)(1) of the Land Development Regulations (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.
Satisfied
 - b. The Secretary of Interior's Standards for Reconstruction as may be amended from time to time.
Partially Satisfied
The existing contributing building retains a substantial degree of architectural integrity with only minor modifications that have occurred over time. While there is limited historical documentation available, detailed measured drawings of the existing building will serve as sufficient documentation for an accurate reconstruction.
 - c. 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 historic preservation board shall consider the following criteria pursuant to section 2.13.7(d)(ii)(2) of the Land Development Regulations (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.
Satisfied
 - c. Texture and material and color.
Satisfied
 - d. The relationship of subsections a., b., c., above, to other structures and features of the district.
Satisfied
 - e. The purpose for which the district was created.
Satisfied

- 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.
Satisfied
- III. The examination of architectural drawings for consistency with the criteria pursuant to section 2.13.7(d)(ii)(3) of the Land Development Regulations 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.
Satisfied
 - 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 2.13.1(c).
Satisfied
 - d. The proposed structure, or additions to an existing structure are appropriate to and compatible with the environment and adjacent structures, and enhance the appearance of the surrounding properties, or the purposes for which the district was created.
Satisfied
 - 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.

Satisfied

- 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).
Satisfied
- 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
- p. In addition to the foregoing criteria, the requirements of chapter 104, of the General Ordinances, shall apply to the historic preservation board's review of any proposal to place, construct, modify or maintain a wireless communications facility or other over the air radio transmission or radio reception facility in the public rights-of-way.
Not Applicable
- q. The structure and site comply with the sea level rise and resiliency review criteria in chapter 7, article I, as applicable.
Partially Satisfied

CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION EVALUATION CRITERIA

Section 2.13.7(d)(vi)(4) of the Land Development Regulations 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 part of a historic preservation district or as a historic architectural landmark or site, or is designated pursuant to section 2.13.9 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 site is located within the Collins Waterfront Park Local 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 or expense.
Satisfied
The existing structure is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense.
- c. The building, structure, improvement, or site is one of the last remaining examples of its kind in the neighborhood, the county, or the region, or is a distinctive example of an architectural or design style which contributes to the character of the district.
Satisfied

The existing structure is a distinctive example of the Mediterranean Revival/Art Deco Transitional style of architecture which contributes 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 noncontributing building, structure, improvement, site or landscape feature in a historic district as defined in chapter 1 of these land development regulations or is an architecturally significant feature of a public area of the interior of a historic or contributing building.

Satisfied

The existing building is classified as a contributing building 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 subject structure is critical to developing an understanding of an important Miami Beach architectural style.

- 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, or the design review guidelines for that particular district. If the district in which the property is located lists retail uses as an allowable use, then the ground floor shall contain such uses. At-grade parking lots shall not be considered under this regulation. Parking lots or garages as main permitted uses shall not be permitted on lots which have a lot line on Ocean Drive or Espanola Way.

Not Applicable

The proposed demolition 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 is proposing to reconstruct the building to be totally demolished.

- h. The 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

The subject site is comprised of two parcels containing three structures all of which are classified as contributing. 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.

As noted in the Background section of this report, on January 12, 2021, the Historic Preservation Board approved the total demolition of both the 1938 and the 1962 structures, the relocation, elevation and restoration of the 1936 building to the front of the site and the introduction of a new multi-family residential building at the rear of the site.

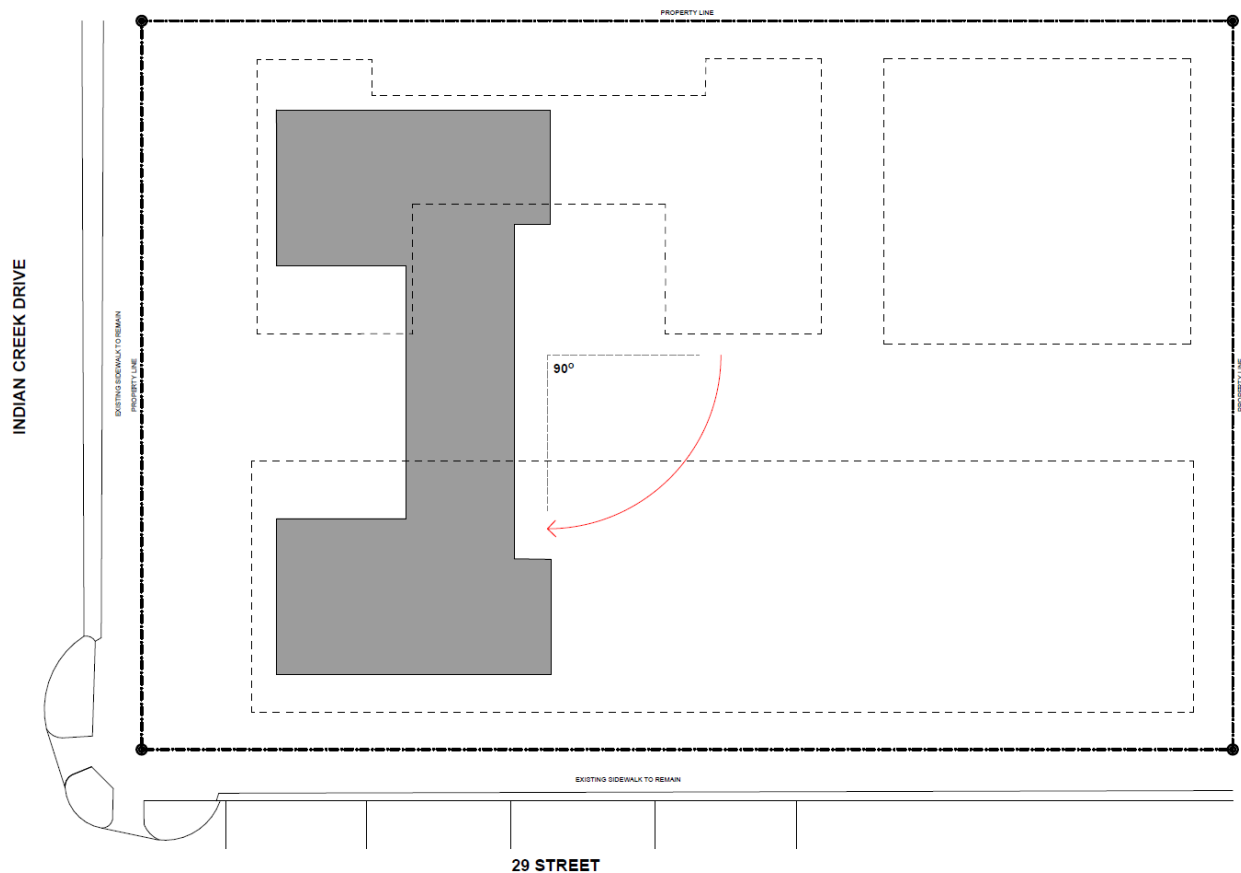


Diagram from previously approved project plans, illustrating the proposed relocation.

Since that time, the applicant has applied for a building permit for the approved project and retained a structural engineer to prepare a methodology for the relocation of the 1936 building. The applicant has submitted a letter from McNamara Salvia Structural Engineers, dated May 9, 2024, which provides an overview of the structural conditions of the existing building. The letter further notes that in order to move the u-shaped building, it would have to be cut into three separate sections. The letter concludes, “the existing building is not properly reinforced nor connected together for the stresses induced by lifting and moving. Instead, we would recommend saving the more architecturally significant lower exterior stairs and landings along with the curved

parapet walls attached. This process could be better controlled with success due to a more compact set of connected elements”.

As part of the current proposal to reconstruct the 1936 building, the applicant is proposing to salvage the curved entry stairs and decorative planter and exterior tiles, to be reincorporated into the reconstructed building. To ensure the most authentic reconstruction as possible, staff recommends that detailed measured drawings of all facades and a complete set of color photographs of the exterior be submitted to staff for review prior to the issuance of any demolition permit. Based upon the representations made by the structural engineer, staff has no objection to the demolition and reconstruction provided the applicant produce large scale detailed measured drawings prior to any demolition.

Staff does, however, have serious concerns regarding the maintenance of the property and related nuisances to the surrounding neighborhood. The unoccupied buildings have had an increasingly adverse impact on the developed urban context of the surrounding historic district. Staff would note that several violations for property maintenance have been issued, resulting in unsafe structures violations. Additionally, a violation has been issued for the installation of a fence without a permit. Per Section 7.5.1.6(a) of the Land Development Regulations, this property must comply with the minimum fencing and landscaping requirements for vacant and abandoned properties. Staff strongly recommends that the applicant obtain a fencing permit that complies with the above noted code section within 90 days of the approval of this modification and fencing shall be installed within 120 days.

In summary, staff has no objection to the requested modification as outlined above and believes that expediting the property’s return to active use will greatly benefit the quality of life and character of the surrounding historic district.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the request for a modification to a previously issued Certificate of Appropriateness be **approved**, subject to the conditions enumerated in the attached draft Order, which address the inconsistencies with the aforementioned Certificate of Appropriateness criteria, as applicable.

HISTORIC PRESERVATION BOARD
City of Miami Beach, Florida

MEETING DATE: October 8, 2024

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

FILE NO: HPB24-0626

APPLICANT: 29 ICD LLC

IN RE: An application has been filed requesting modifications to a previously issued Certificate of Appropriateness 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. Specifically, the applicant is requesting approval for the total demolition and reconstruction of the building previously approved to be retained and relocated on the site.

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.

CONSOLIDATED 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 7.1.2.4(a)(1) of the Land Development Regulations.
 - 2. Is consistent with Certificate of Appropriateness Criteria in section 2.13.7(d)(ii)(1) of the Land Development Regulations.

3. Is consistent with Certificate of Appropriateness Criteria in section 2.13.7(d)(ii)(2) of the Land Development Regulations.
 4. Is consistent with Certificate of Appropriateness Criteria in section 2.13.7(d)(ii)(3) of the Land Development Regulations.
 5. Is consistent with Certificate of Appropriateness Criteria in 2.13.7(d)(vi)(4) of the Land Development Regulations.
- C. The project would be consistent with the criteria and requirements of sections 2.13.7(d) and 7.1.2.4(a) of Land Development Regulations 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.~~
 - a. The 1936 building shall be reconstructed as accurately as possible, in the location previously approved by the Board at the January 12, 2021 meeting, 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. Full measured drawings of the building facades and a complete set of color photographs of the exterior be submitted to staff for review prior to the issuance of any demolition permit for this building.
 - ii. The first habitable floor shall be located at 9.00' NGVD.

- iii. A central air conditioning system shall be provided.
 - iv. Impact resistant casement windows shall be provided and shall incorporate a muntin configuration that is consistent with available historical documentation.
- b. The final design and details of the south pedestal portion of the new addition shall be further developed and may contain openings in a manner more consistent with the design alternatives presented at the January 12, 2021 meeting, 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.

3. In accordance with Section 7.5.1.6 of the Land Development Regulations, the applicant shall comply with the minimum fencing and landscaping requirements. A building permit for fencing shall be issued within 90 calendar days of this approval and installation shall occur no later than 120 calendar days after this approval.

In accordance with section 2.2.4.8(c) of the Land Development Regulations the applicant, 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 magistrate 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 1'-6" (15%) 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 4'-0" (40%) into the north side yard.
5. A variance to exceed by 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 4'-0" (40%) into the south side yard.
6. A variance to exceed by 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 7'-6" (50%) into the rear yard.
7. A variance to exceed by 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 6'-7" (53%) into the north side yard.

8. A variance to exceed by 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'-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. This Final Order consolidates all conditions and requirements for Certificate of Appropriateness approval as same are contained herein, in the Order dated January 12, 2021 (HPB20-0379), accordingly, this Order shall serve as the Final Order for the proposed project. In the event of a conflict between the provisions hereof and those of the previous Orders, the provisions hereof shall control.
- ~~A.~~ B. 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.~~ C. 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.~~ D. The relocation of any tree shall be subject to the approval of the Environment & Sustainability Director and/or Urban Forester, as applicable.
- ~~D.~~ E. 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.~~ F. 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.~~ G. 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.~~ H. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- ~~H.~~ I. 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.

- ✚ J. 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.
- ✚ K. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- ✚ L. 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.
- ✚ M. 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, and August 2, 2024**, 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 section 2.13.7 of the Land Development Regulations; 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 2 of the Land Development Regulations, the violation of any conditions and safeguards that are a part of this Order shall be deemed a violation of the land development regulations. Failure to comply with this Order shall subject the application to chapter 2 of the Land Development Regulations, 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 _____ ())