

**MIAMI BEACH**  
PLANNING DEPARTMENT  
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: December 01, 2015

FROM: Thomas R. Mooney, AICP  
Planning Director



SUBJECT: Design Review File No. 23194  
**6800 Indian Creek Drive**

The applicant, 6800 Indian Creek, LLC is requesting Design Review approval for the construction of a new twelve-story (140' high) multi-family building on a vacant site, including a variance to eliminate the residential or commercial use requirement for all floors of the building, which contains parking spaces at the ground level along every facade facing a street.

**RECOMMENDATION:**

Denial

**LEGAL DESCRIPTION:**

Lots 35-37 of Block 3, of "2 Oceanfront Amended No.3", according to Plat thereof as recorded in Plat Book 28, Page 28, of the Public Records of Miami-Dade County, Florida.

**HISTORY:**

At the October 06, 2015 Design Review Board meeting, the application was continued to the December 01, 2015 DRB meeting at the request of the applicant.

**SITE DATA:**

Zoning: RM-2  
Future Land Use: RM-2  
Lot Size: 48,273 SF  
Existing FAR: 0 / Vacant Lot  
Proposed FAR: 95,420 SF (2.0)\*  
Permitted FAR: 95,546 SF (2.0)  
\*As represented by the applicant  
Height:  
Proposed: 140'-0" / **12-Story**  
Maximum: 140'-0" / 15-Story  
Highest Projection: 163'-0"  
Existing Use: Vacant Parcel  
Proposed Use: Residential Condominium

Residential Units: 30 Units  
Required Parking: 66 Spaces  
Provided Parking: 66  
(60+6 Guest Spaces)  
Bicycle Parking: 34 spaces

Grade: +5.76' NGVD  
Flood: +8.00' NGVD  
Difference: 2.24' NGVD  
Adjusted Grade: +6.88' NGVD

**Surrounding Properties:**

East: Eight-story Residential Building  
North: Ten-story Residential Building  
South: Fifteen-story Residential Building  
West: Indian Creek Canal

**THE PROJECT:**

The applicant has submitted plans entitled "6800 Indian Creek Drive", as prepared by **Arquitectonica** dated, signed, and sealed 10/30/2015.

The applicant is proposing to construct a twelve-story, thirty-unit, residential building over one level of parking on a vacant site.

The applicant is requesting the following variance(s):

1. A variance to eliminate the residential or commercial use requirement for all floors of a building containing parking spaces at every level along every facade facing a street.

- Variance requested from:

**Sec. 142-219. - Regulations for new construction**

*In the RM-2, residential district, all floors of a building containing parking spaces shall incorporate the following:*

- (1) Residential or commercial uses, as applicable, at the first level along every facade facing a street, sidewalk or waterway.*

This variance pertains to the elimination of active residential uses at the first level along the street facade. Staff has very serious concerns with the precedent that this type of request would establish for future developments, specifically for buildings fronting on Indian Creek Drive. The Planning Department has consistently recommended denying any variance that seeks to eliminate this component of the Code, particularly when a vacant site has nearly 225' of linear frontage on a major street and Bay. The size of the lot with more than 48,000 sf is larger than most properties in the area and the granting of this variance would confer on the applicant a special privilege not granted for other properties in the same zoning district. Staff recommends that this variance be **denied** due to a lack of hardship.

**PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA**

The applicant has submitted plans and documents with the application that staff has concluded **DO NOT** satisfy Article 1, Section 2 of the Related Special Acts.

Additionally, staff has concluded that the plans and documents submitted with the application **DO NOT** comply with the following hardship criteria, 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.

**COMPLIANCE WITH ZONING CODE:**

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the City Code, in addition to the requested variance(s):

1. Two-way interior drive aisle shall be 22' in width. The proposed driveway is reduced in width by two columns adjacent to parking spaces 32 and 33 at the basement level.
2. 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% of the required yard up to a maximum projection of six feet (6'-0"), unless otherwise noted: Porches, platforms and terraces (up to 30" above the elevation of the lot, as defined in subsection 142-105(a)(1)e.). The front entry steps within the front setback appear to exceed the maximum permitted elevation.
3. Retaining walls for vehicular access appear to exceed the maximum height permitted within the front yard.
4. Walkways: Maximum 44". May be increased to a maximum of 5'-0" for those portions of walkways necessary to provide Americans with Disabilities Act (ADA) required turn around areas and spaces associated with doors and gates. Walkways in required yards may exceed these restrictions when approved through the design review procedures.
5. Tandem parking spaces may be utilized for self-parking in multi-family residential buildings and shall have a restrictive covenant, approved as to form by the city attorney's office and recorded in the public records of the county as a covenant running with the land, limiting the use of each pair of tandem parking spaces to the same unit owner.

The above noted comments 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 COMPREHENSIVE PLAN:**

A preliminary review of the project indicates that the proposed **residential use** appears to be **consistent** with the Future Land Use Map of the 2025 Comprehensive Plan and the proposed Public Baywalk is **consistent** with several Objectives and Policies within the 'RECREATION AND OPEN SPACE ELEMENT' and 'TRANSPORTATION ELEMENT' of the City's Comprehensive Plan.

**ACCESSIBILITY COMPLIANCE**

Additional information will be required for a complete review for compliance with the Florida Building Code 2001 Edition, Section 11 (Florida Accessibility Code for Building Construction). These and all accessibility matters shall require final review and verification by the Building Department prior to the issuance of a Building Permit.

**CONCURRENCY DETERMINATION:**

In accordance with Chapter 122 of the Code of the City of Miami Beach, the Transportation and Concurrency Management Division has conducted a preliminary concurrency evaluation and determined that the project does not meet the City's concurrency requirements and level-of-service standards. However, the City's concurrency requirements can be achieved and satisfied through payment of mitigation fees or by entering into an enforceable development agreement with the City. The Transportation and Concurrency Management Division will make the determination of the project's fair-share mitigation cost.

A final concurrency determination shall be conducted prior to the issuance of a Building Permit. Mitigation fees and concurrency administrative costs shall be paid prior to the project receiving any Building Permit. Without exception, all concurrency fees shall be paid prior to the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy.

**COMPLIANCE WITH DESIGN REVIEW CRITERIA:**

Design Review encompasses the examination of architectural drawings for consistency with the criteria stated below with regard to the aesthetics, appearances, safety, and function of the structure or proposed structures in relation to the site, adjacent structures and surrounding community. Staff recommends that the following criteria are found to be satisfied, not satisfied or not applicable, as hereto indicated:

1. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, trees, drainage, and waterways.  
**Satisfied**
2. 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.  
**Not Satisfied; The orientation and massing of the subject building effectively broadsides Indian Creek Drive and the Bay. Residential uses are required at the first level along every facade facing a street, sidewalk or waterway.**
3. 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; Residential uses are required at the first level along every facade facing a street, sidewalk or waterway.**

4. The color, design, selection of landscape materials and architectural elements of Exterior Building surfaces and primary public interior areas for Developments requiring a Building Permit in areas of the City identified in section 118-252.  
**Not Satisfied; The overall architectural design scheme fails to incorporate a massing scheme that relates to the special nature of the Indian Creek / Bayfront area.**
5. The proposed site plan, and the location, appearance and design of new and existing Buildings and Structures are in conformity with the standards of this Ordinance and other applicable ordinances, architectural and design guidelines as adopted and amended periodically by the Design Review Board and Historic Preservation Boards, and all pertinent master plans.  
**Not Satisfied; The orientation and massing of the subject building effectively broadsides Indian Creek Drive and blocks vistas to the Bay.**
6. The proposed Structure, and/or additions or modifications to an existing structure, indicates a sensitivity to and is compatible with the environment and adjacent Structures, and enhances the appearance of the surrounding properties.  
**Not Satisfied; The orientation and massing of the subject building effectively broadsides Indian Creek Drive and the Bay.**
7. The design and layout of the proposed site plan, as well as all new and existing buildings 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 contiguous and adjacent Buildings and lands, pedestrian sight lines and view corridors.  
**Not Satisfied; The orientation and massing of the subject building effectively broadsides Indian Creek Drive and the Bay, and fails to establish, maintain and promote adequate view corridors through the site. Additionally, the removal of the linear and the placement of the lobby 8'-0" above sidewalk elevation does not comply with CPTED guidelines.**
8. 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 all parking spaces are usable and are safely and conveniently arranged; pedestrian furniture and bike racks shall be considered. Access to the Site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the Site.  
**Satisfied**
9. 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. Lighting shall be reviewed to assure that it enhances the appearance of structures at night.  
**Not Satisfied; a lighting plan has not been submitted**

10. Landscape and paving materials shall be reviewed to ensure an adequate relationship with and enhancement of the overall Site Plan design.  
**Not Satisfied; the landscape plan is not consistent and is not sufficiently developed.**
11. 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**
12. The proposed structure has 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).  
**Not Satisfied; The orientation and massing of the subject building effectively broadsides Indian Creek Drive and the Bay.**
13. The building has, where feasible, space in that part of the ground floor fronting a 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 street, or streets shall have residential or commercial spaces, shall have the appearance of being a residential or commercial space or shall have an architectural treatment which shall buffer the appearance of the parking structure from the surrounding area and is integrated with the overall appearance of the project.  
**Not Satisfied; The orientation and massing of the subject building effectively broadsides Indian Creek Drive and the Bay.**
14. The building shall have an appropriate and fully integrated rooftop architectural treatment which substantially screens all mechanical equipment, stairs and elevator towers.  
**Satisfied**
15. An 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 orientation and massing of the subject building effectively broadsides Indian Creek Drive and unnecessarily impedes important view corridors. The design reflects the variance to provide parking spaces at the ground level along every facade facing a street, contrary to the design guidelines.**
16. All portions of a project fronting a street or sidewalk shall incorporate an architecturally appropriate amount of transparency at the first level in order to achieve pedestrian compatibility and adequate visual interest.  
**Not Satisfied; The design does not incorporate any transparency at the ground level fronting the street and fails to engage in any pedestrian compatibility or interest. The design reflects the variance to provide parking spaces at the ground level along every facade facing a street, contrary to the design guidelines.**

17. 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**

**STAFF ANALYSIS:**

**DESIGN REVIEW**

The applicant is proposing to construct a twelve-story, thirty-unit, residential building over one level of parking on a vacant waterfront rhomboid-shaped site. Dual two-way vehicular drives, one on the north and one on the south side of the site, provide ingress and egress from the subterranean garage and multi-tiered lobby. This portion of the City has a significant vehicular access challenge since this section of Indian Creek Drive contains a continuous landscaped median separating north- and southbound traffic and offering no cross breaks. Vehicular access to the site is only available via the southbound lanes of Indian Creek Drive.

The entirety of the building, and the site, is elevated to 14'-0" NGVD in order to accommodate a partially "subterranean" level of parking. A slightly raised single residential unit fronts the entrance to Biscayne Bay to the south of the site, and public access to the future bay front walk provided at the north and south of the property. There are nine parking spaces outside of the lobby, exposed to Indian Creek Drive. The areas above the parking garage are proposed to be open landscaped areas with grading levels that lead to the sidewalk.

Much like the concerns expressed by staff in 2004 while reviewing a prior application, staff has serious design concerns, which have been expressed with the applicant and the design team, pertaining to the general orientation and massing of the subject proposal on the site. By siting the architecture parallel to the Bay, the building effectively sections off Indian Creek Drive and blocks the vistas to the Bay.

Staff recognizes the applicant's desire to provide the best water views for the residences; however this should not be the sole objective, and the proposed project is not responsive to other equally important urbanistic design issues which affect the community as a whole. In this regard, the Design Review Criteria addresses the need to provide view corridors that will enable the broader public to have at least a reasonable sense of Biscayne Bay, as well as continue a street level urban form.

The proposed new structure will effectively broadside the Bay and remove itself from the street and sidewalk, reinforcing the "Condo Canyon" effect initiated by the existing structure to the south—and most notably seen along portions of Collins Avenue. Built in 1968, the Aqua Sol Condominium is an eighteen-story rectilinear structure that is sited parallel to the waterway and street from side setback line to side setback line for 300' of linear frontage. Aside from the orientation and massing of the building effectively blocking Indian Creek Drive and the Bay, the building has an abundant amount of surface parking in the front yard of the structure and an unlined, exposed two-story parking garage that is seated directly upon the Bay. This typology is not a model for new construction, but inconsistent with today's urban design standards and the Design Review Criteria in the City Code. The effect created by the existing structure to the south is truly a detriment to the neighborhood but it is

negated by the fact that it is an anomaly; it is the only existing structure with such a large amount of mass oriented parallel to the street.

Contrarily, the residential development to the immediate north of the subject site, 6820 and 6830 Indian Creek Drive, has a similar height and bulk as the proposed project, yet its mass has been broken into two (2) separate structures arranged perpendicular to the street so that some connection to the water and sky is maintained. These buildings were constructed in 1981. Staff strongly recommends that the applicant consider a similar linear, two (2) tower massing scheme for the subject site.

Further, within the immediate area, more recent DRB approvals have yielded structures on sites similarly sized as the subject parcel that have a more responsive and sensitive siting to the historic linear orientation of MiMo architecture. The orientation of these structures allow for the circulation of breezes, light and air, as well as maintain or establish view corridors for pedestrians and motorists along this section of Indian Creek Drive. The three most recent developments south of the Aqua Sol Condominium further address, respond and maintain view corridors to the water—all in the form of curving architectural towers. Lying directly south is 6700 Indian Creek Drive 'NOBE Bay', which was approved in March 2004 for a new fifteen-story residential building, pursuant to DRB File No. 17560.

Neighboring that building to the south is 6610-6640 Indian Creek Drive 'Regatta II', which was approved in February 2006 for a new nine-story structure that incorporated the existing 2-story Queen Elizabeth structure fronting Indian Creek, as well as an architectural opening through the central portion of the long crescent shaped tower, pursuant to DRB File No. 18798. And finally, directly south of that is 6580 Indian Creek Drive 'Regatta I' which was approved in July 2003 for a new six-story residential building which also features an arced tower, pursuant DRB File No. 17115.

In addition to these concerns with regard to the orientation of the tower, staff also has serious concerns with the design and programming of the pedestal. In this regard, the project should better respect the historically low-scale nature of the property, if only at the ground level, as well as the pedestrian experience at the sidewalk. To this end, it is strongly suggested that the entire first floor of the east side of the structure consist of active program and that the parking spaces be shifted west. Further, the design of the front of the building should be re-thought in order to eliminate any surface parking.

Staff also has serious apprehensions as it pertains to the proposed "mount" facing Indian Creek Drive and the overall treatment of the front of the site. The proposed landscape plans provided are not consistent with the renderings and fail to properly align with the proposed floor plans. The floor plans show a continuous stair within the required front yard—which is not permissible by Code. Additionally, the rendering shows the rear yard to be substantially paved while the landscape plan shows this area to have more landscaped areas. The mount consists of two main "terraces", approximately 150' in width, that is proposed with sod and several shade canopy trees. The landscape plans, however, do not have sufficient information for staff to determine if the proposed "mount" has the necessary soil depth to sustain the proposed canopy shade trees. Additionally, while the side yards and rear yards seem to be further developed in the use of differentiating plant materials, the front yard and "terraces" lack the same amount of detail.

The applicant has not yet received approval from the Miami-Dade County Shoreline Review Board for the subject application. Notwithstanding the Shoreline Review Board does not have the authority to supersede the Design Review criteria in the City Code. In this regard, staff will make it clear to the Shoreline Review Board that the applicant's proposal is not the only acceptable massing and orientation for the subject site. Further, it is staff's understanding that the proposed design currently does not meet several of the Shoreline Development action review criteria, even though a public Baywalk is proposed. Staff notes that all three recently constructed projects in this immediate area along Indian Creek Drive 'NOBE Bay', DRB File No. 17560, Regatta II, DRB File No. 18798 and Regatta I, DRB File No. 17115., have been required to supply the public Baywalk.

Staff has met with the applicant and the design team, and while the discussions have been courteous, no design consensus was reached on the fundamental issue of building orientation.

Staff believes that the proposed approach is so fundamentally flawed that an entire re-thinking of the overall design concept, massing, orientation, circulation and programming is in order and that a new application will be required.

#### **VARIANCE REVIEW**

Planning staff is not supportive of the requested variance and finds that, in this instance, the applicant's alleged hardship is self-imposed. The elimination of the residential liner is a self-imposed hardship since this is a completely new construction project consisting of three parcels with ample lot width and lot area. The combination of the three parcels results in a lot width of 225' and a lot depth of 217'-0", adequate room to comply the minimum Code requirements. The proposed elimination of the active uses along the ground floor fronting Indian Creek Drive is directly correlated with the design decision to orient the building parallel to the Biscayne Bay, and therefore be required to allocate active residential uses (FAR) along both broadsided ground floor elevations.

The granting of this variance would set a negative precedent since the elimination of this required active space is not supported under the Hardship Criteria.

#### **RECOMMENDATION:**

In view of the foregoing analysis and the inconsistencies with the aforementioned Design Review criteria, staff recommends the application be **DENIED** without prejudice. Any new application should address the following concerns:

1. The massing and orientation of the proposed new structure shall be completely restudied and revised in order to provide air, light and view corridors from the waterway to the street and sidewalk; at a minimum, any new structure shall be re-oriented so as to be perpendicular to the street and sidewalk.
2. In conjunction with the reorientation of the building, staff would also recommend the living area of the building be redistributed, to include townhouse residences closer to the street at the pedestal setback, and/or active programming at the street level to provide a more pedestrian friendly environment along Indian Creek Drive. The building, as proposed, does not offer a very inviting appearance at the ground level, with its two, two-way drives facing the street, which requires a variance.

3. The proposed landscape plan should be further developed to provide a layering of plant materials to include trees, palms, shrubs and ground cover as oppose to just sod throughout the entire site.
4. Backflow preventor and FPL transformer shall be internalized.
5. The Public Baywalk shall be designed, permitted and built by the applicant. All costs associated with the design, permitting and construction of the Public Baywalk, as described herein, shall be borne by the applicant.
6. Prior to the issuance of a building permit for any work approved by the Design Review Board, as it relates to the subject development project, the applicant shall enter into and record a restrictive covenant, approved by the Miami Beach City Attorney, which runs with the land, confirming the applicant's agreement to design, permit, construct and maintain a Public Baywalk, in perpetuity, and confirming public access to such Public Baywalk, in accordance with the conditions herein. The restrictive covenant shall be recorded in the public records, at the expense of the applicant.

TRM/JGM

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