



200 S. Biscayne Boulevard
Suite 300, Miami, FL 33131
www.brzoninglaw.com
305.377.6234 office
305.377.6222 fax

VIA ELECTRONIC SUBMITTAL

October 29, 2021

Otniel Rodriguez, E.I.
Right of Way Manager, Public Works Department
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

RE: **RWP0721-7709** - Letter of Intent - Revocable Permit Request
for Seawall Repair for 3333 Garden Avenue, Miami Beach,
Florida 33140

Dear Mr. Rodriguez:

This law firm represents the Elaine R. Levine Living Trust (the "Applicant") the owner of the property located at 3333 Garden Avenue (the "Property") with respect to its application for a revocable permit for encroachment of a seawall on City of Miami Beach ("City") submerged lands pursuant to Section 82-97 of the City Code (the "Code"). Please consider this the Applicant's letter of intent in support of a request for a revocable permit for encroachment of a seawall on City-owned submerged lands.

Property Description. The property is located at the southeast corner of the intersection of Garden Avenue and West 34 Street in the City and identified by Miami-Dade County Folio No. 02-3227-015-0080. The Property is a waterfront lot improved with a single-family home constructed in 1934 and approximately 160-foot long seawall along its southern boundary.

Request. The Applicant seeks a revocable permit pursuant to Section 82-94 and 82-97 of the Code to permit a seawall encroachment into City-owned submerged lands greater than 4'. The purpose of this revocable permit is to permit the Applicant to repair and fortify the existing seawall, which improves the resilience of the Property and the surrounding neighborhood in which it is located. Notably, the existing sea wall encroaches upon City-owned submerged lands by approximately 4'3". The proposed repair and fortification of the existing seawall will result in a maximum total encroachment of approximately 5'-7".

Analysis. The request satisfies the criteria set forth in Section 82-94 of the Code as follows:

1) The Applicant's need is substantial.

The Applicant's need is substantial based on the City's requirement to elevate existing seawalls, the configuration of the existing seawall, and the negative impacts caused by any alternative that would not require a revocable permit. In 2016 the City adopted Resolution 2016-29454, which requires property owners to increase the minimum height of existing seawalls to 4.0' NAVD. In addition, existing seawalls must be able to accommodate future extension to a height of 5.7' NAVD. In recognition of the challenge property owners face with respect to repairs of existing seawalls required to meet the new seawall height requirements, the City adopted Resolution 2018-4220, which permits property owners to seek revocable permits for seawalls that encroach more than 4' into City-owned submerged lands.

Importantly, due to the existing configuration of the Property, the existing seawall encroaches into City-owned submerged lands by approximately 4'-3". Consequently, any work to this seawall would either require a revocable permit, or require intrusive work to the shoreline to remove the existing seawall, excavate the shoreline, and replace with a seawall that encroaches less than 4' into City-owned submerged lands. In evaluating whether to repair and fortify the existing seawall or replace the existing seawall, the Applicant considered the following factors:

- **Environmental Damage:** As documented in the attached Environmental and Structural Assessment, the environmental impacts of replacing the existing seawall far outweigh the impacts of repairing and fortifying the existing seawall. See Exhibit A, Environmental and Structural Assessment. Replacement of the existing seawall would entail impactful excavation of the shoreline and use of heavy marine equipment that would deplete biological and marine resources in the immediate vicinity of the Property. Further, the turbidity created by excavation of the shoreline and demolition would likely impact a wider area, with the potential to smother native sea grasses, and negatively impact other marine flora and fauna down-current from the Property.
- **Damage to Neighbors.** Removal of the seawall would create a substantial risk of damage to the seawall belonging to neighboring property owners. Notably,

the neighboring property to the west identified by Folio No. 02-3227-015-0071 is owned by the City and is fortified with a seawall. Similarly, the neighboring property to the west is fortified with a seawall. Demolition of the existing seawall and the required excavation work to install the replacement seawall creates a risk of destabilizing the neighboring seawalls. In this particular instance, destabilization of the City-owned seawall at the Garden Avenue street-end would create a substantial risk of flooding in a public right of way, while destabilization of the neighboring seawall to the west threatens the neighboring property.

- **Cost.** In addition to the environmental impacts, potential structural damage to public and private property, the cost of replacement of the existing seawall far exceeds the costs of repair and fortification with no discernable additional benefit. The estimated cost of a full seawall replacement is approximately \$240,000.00 compared to \$95,850.00 for repair and fortification.

In light of the unavoidable environmental harm, substantial risk of property damage, and unjustified additional cost associated with a full replacement of the existing seawall, the Applicant's need for a revocable permit is substantial.

2) The Applicant holds title to an abutting property.

According to the Opinion of Title prepared by Paul A. Levine, Esq. dated October 29, 2021, the Applicant holds title to the Property, which abuts the submerged lands upon which this revocable permit seeks to encroach. See Exhibit B, Opinion of Title.

3) The proposed improvements will comply with applicable codes, ordinances, regulations, neighborhood plans and laws.

The proposed improvements comply with all applicable codes, ordinances, regulations, neighborhood plans, and laws. Specifically, the Applicant has already obtained approval from the Florida Department of Environmental Protection and the United States Army Corps of Engineers for the proposed improvements to the existing seawall. Further, through Building Permit Number BR2105477, the City has reviewed and approved the proposed improvements to the existing sea wall.

4) The grant of the application will have no adverse effect on governmental/utility easements and uses on the property.

The grant of the revocable permit will have no adverse impact on governmental or utility easements and uses on the Property. To the contrary, replacement of the existing seawall in a position that does not require a revocable permit would negatively impact the City-owned property to the west of the Property, and could impact various public utilities commonly associated with public street-ends.

5) That the grant of the revocable permit will enhance the neighborhood and/or community by such amenities as, for example, enhanced landscaping, improved drainage, improved lighting, and improved security.

The grant of the revocable permit allows for the Applicant to install a repaired and significantly more resilient seawall. The higher seawall protects the Property, as well as the surrounding neighborhood from harmful flood impacts associated with extreme weather events, as well as nuisance flooding caused by rising sea levels. Grant of the revocable permit also mitigates environmental impacts caused by marine construction, which serves to preserve marine life in the adjacent waters of Biscayne Bay. Thus, the grant of the revocable permit enhances the neighborhood and community by improving resilience and mitigating harmful environmental impacts.

6) That granting the revocable permit requested will not confer on the applicant any special privilege that is denied by this article to other owner of land, structures or buildings subject to similar conditions located in the same zoning district.

The grant of the requested revocable permit does not confer any special privileges upon the Applicant not shared by similarly situated property owners in the same zoning district. The City expressly recognized the need of similarly situated property owners with existing sea walls that encroach into City-owned submerged lands to seek revocable permits by adopting Resolution 2018-4220. Indeed, on at least one previous occasion, the City granted a revocable permit request for the property located at 544 Lakeview Court, which is within a similar residential single-family zoning district as the Property. See Exhibit C, 544 Lakeview Court Resolution.

7) That granting the revocable permit will be in harmony with the general intent and purpose of this article, and that such revocable permit will not be injurious to surrounding properties, the neighborhood, or otherwise detrimental to the public welfare.

The specific purpose of Resolution 2018-4220 was to allow owners of property with existing sea walls that encroach into City submerged lands, such as the Applicant, to seek a revocable permit. Such revocable permits mitigate environmental damage caused by intrusive marine construction, avoid damage to neighboring properties, improve resilience of properties and their surrounding neighborhoods, and are cost-efficient for the residents of the City. Denial of such a request for a revocable permit would be a detriment to the public welfare. Accordingly, the requested revocable permit is in harmony with the general intent and purpose of the Code.

Conclusion. The Applicant's proposed seawall repair and fortification is necessary to protect the Property and the surrounding neighborhood from storm and sea level rise induced flooding. A complete replacement of the seawall is unnecessary, particularly in light of the environmental and property damage that is likely to be associated with such intrusive marine construction. We therefore respectfully request your recommendation of approval for the requested revocable permit.

Sincerely,



Nicholas Rodriguez

Attachment

cc:

Matthew Amster, Esq.
Alan Levine, Esq.
Kirk Lofgren

**3333 GARDEN AVENUE WATERFRONT IMPROVEMENTS PROJECT
3333 GARDEN AVENUE**

CITY OF MIAMI BEACH

ENVIRONMENTAL & STRUCTURAL IMPACT REVIEW

OCTOBER 2021

The 3333 Garden Avenue Waterfront Improvements Project proposes waterfront improvements along the property's riparian shoreline. The site is located on a canal, south of Lake Surprise in the City of Miami Beach, and is tidally connected to the larger Biscayne Bay ("Project"). Along the shoreline fronting the canal, the existing concrete seawall was previously constructed waterward of the 3333 property line, and is currently built, and encroaching upon, City-owned submerged lands/property. The primary focus of this summary is to evaluate the potential for environmental and structural impacts to the canal, and the neighboring two adjacent properties, if the City of Miami Beach were to require complete removal, excavation, and relocation of the existing seawall back to the property line at the site.

Currently, the Project proposes the following activities to safely provide access to the shoreline, and to meet City requirements for seawall improvements (height and strength):

1. Replacement of the existing seawall by the installation of a new concrete seawall panel, concrete batter piles, concrete king piles, and the forming and pouring of a new concrete seawall cap that does not require complete removal of the existing seawall.
2. Installation of a new wood dock with (4) new mooring piles.

The focus of this summary is primarily on the proposed seawall improvements.

Environmental Impact – The canal south of Lake Surprise is located in close proximity, and is tidally connected to, Biscayne Bay / Biscayne Bay Aquatic Preserve. Given its proximity, it is not unusual for seagrass communities to grow within the Lake Surprise water environment. These seagrass communities primarily consist of *Halophila decipiens* (Paddle Grass) and *Halodule wrightii* (Shoal Grass), among other types. Typically found in similar water environments such as Lake Surprise would also be macroalgae, sponges, and limited coral coverage. Removal of the existing seawall would compromise these marine resource communities, both directly and indirectly.

If the City of Miami Beach were to require removal of the existing concrete seawall at the property, excavation of the soil/spoil material back to the property line, and re-installation of a new seawall, most of the marine resources within a 15-30 foot footprint of the construction work would be lost due to direct impact from seawall removal activities (e.g. excavation and heavy demolition work, disturbance of submerged lands, poor water quality, smothering). There is a high likelihood of further habitat loss and water quality degradation from secondary, indirect impacts by shading and loss of sunlight from turbid water generated during excavation to remove the spoil behind the existing seawall. This

turbid water is notoriously difficult to control and would impact a larger area within the canal fronting the property as well as Lake Surprise.

As a result of these potential direct and indirect impacts to marine resources, complete seawall removal and relocation is not recommended. Typical practice for seawall replacement work is installation of new seawalls immediately waterward of existing.

Structural Impact – In addition to marine resource impacts, there is the significant potential for structural damage to neighboring seawalls resulting from complete demolition of the existing seawall at the Project site. Currently, on both sides of the property, the existing seawalls abut each other. If there was going to be complete removal, the adjacent seawalls would need to be monitored for cracking and destabilizing movement from 3333 seawall demolition. The resulting cracks and impacts to the neighboring properties would likely require significant repairs, if not replacement of segments of each, to avoid future failure.

Removal of the existing 3333 seawall and relocation landward would also result in a significant gap between property shorelines. This gap would require perpendicular seawall connections to shore up and seal the edges, resulting in additional costs associated with the original seawall removal project.

Conclusions

Based upon the above findings, Ocean Consulting recommends a seawall replacement project that does not require complete seawall removal, excavation, and placement landward. Marine resources and water quality will be protected, and the structural integrity of neighboring seawalls will be maintained.

This instrument was prepared by:
Paul A. Levine, Esquire
Levine & Partners, P.A.
3350 Mary Street
Miami, FL 33133

Opinion of Title

To: CITY OF MIAMI BEACH

With the understanding that this Opinion of Title is furnished to CITY OF MIAMI, BEACH, as inducement for issuance of a permit covering the real property, or other land use approval hereinafter described, it is hereby certified that I have examined a Title Search Report ("TSR") issued by Chicago Title Insurance Company under Order Number: 9945415 covering the period of time from the beginning through October 4, 2021 at 8:00 a.m., of the following described property ("Property"):

Lots 1 and 2, Block 2, Amended Plat of Garden Subdivision, according to the map or plat thereof, as recorded in Plat Book 31, Page(s) 9, of the Public Records of Miami-Dade County, Florida.

Based only upon the TSR, I am of the opinion that on the last mentioned date, the fee simple title to the above-described real property was vested in:

Elaine R. Levine, as Trustee of the Elaine R. Levine Living Trust u/t/d November 20, 2009, by virtue of Special Warranty Deed recorded 01/12/2015 in Official Records Book 29461, Page 1357.

Subject to the following encumbrances: NONE

GENERAL EXCEPTIONS:

1. Taxes and assessments for the year 2021 and subsequent years, which are not yet due and payable.
2. Any claim that any portion of the insured land is sovereign lands of the State of Florida, including submerged, filled or artificially exposed lands accreted to such land.
3. Restrictions, covenants, conditions, easements and other matters as contained on the Plat of Amended Plat of Garden Subdivision, recorded in Plat Book 31, Page 9, of the Public Records of Miami-Dade County, Florida.
4. The nature, extent or existence of riparian rights or littoral rights is not insured.
5. Rights of others to use the waters of any water body extending from the insured land onto other lands.

I, the undersigned, further certify that I am an Attorney at Law duly admitted to practice in the State of Florida, and am a member in good standing of the Florida Bar:

Respectfully submitted this 29th day of October, 2021.

Levine & Partners, P.A.

By: Paul A. Levine

Paul A. Levine, Esquire
Levine & Partners, P.A.
3350 Mary Street
Miami, FL 33133
(305)372-1350 ext. 128
paullevine@levinelawfirm.com
Florida Bar No.: 0091618

RESOLUTION NO. 2020-31455

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, FOLLOWING A DULY NOTICED PUBLIC HEARING, AS REQUIRED PURSUANT TO CITY CODE SECTION 82-93(B), FINDING THAT THE CRITERIA SET FORTH IN SECTION 82-94 OF THE CITY CODE HAS BEEN SATISFIED, AND APPROVING A REVOCABLE PERMIT REQUEST BY 544 LAKEVIEW COURT IRREVOCABLE TRUST (THE "APPLICANT") FOR THE RESIDENTIAL PROPERTY LOCATED AT 544 LAKEVIEW COURT, MIAMI BEACH (THE "PROPERTY") TO ALLOW FOR SEAWALL REPAIR AND REINFORCEMENT WITH SUCH SEAWALL APPROXIMATELY THREE (3) FEET WIDE AND APPROXIMATELY 209 FEET IN LENGTH, AND CURRENTLY ENCROACHING FIVE (5) FEET NINE (9) INCHES (AT ITS MAXIMUM DIMENSION) INTO CITY SUBMERGED LANDS; AND WITH THE PROPOSED REPAIR OF THE SEAWALL FURTHER ENCROACHING INTO CITY SUBMERGED LANDS TO A MAXIMUM DIMENSION OF NINE (9) FEET TWO (2) INCHES, FOR A TOTAL OF 1,599 SQUARE FEET; FURTHER AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE THE REVOCABLE PERMIT.

WHEREAS, 544 Lakeview Court Irrevocable Trust (the Applicant) is requesting the approval of a revocable permit for the residence located at 544 Lakeview Court ("the Property"), to allow for a seawall repair and reinforcement; and

WHEREAS, the existing seawall is approximately three (3) feet wide and approximately 209 feet in length; and

WHEREAS, the existing seawall currently encroaches five (5) feet nine (9) inches (at its maximum dimension) into City submerged lands; and

WHEREAS, the proposed repair of the existing seawall will further encroach on to City submerged lands to a maximum dimension of nine (9) feet two (2) inches, for a total of 1,599 square feet; and

WHEREAS, the proposed seawall will be constructed to a height of 5.7 feet NAVD; and

WHEREAS, on October 17, 2018, the City Commission adopted Ordinance No. 2018-4220 which allows for the construction of new seawalls to encroach on City submerged lands and provides for a cost efficient manner for such construction; and

WHEREAS, the Applicant has demonstrated that the alternative to the proposed repair and reinforce, which contemplates the issuance of a Revocable Permit, will cost an excess of four times the amount of the repair/reinforcement contemplated and herein; and

WHEREAS, pursuant to Section 82-93(a) of the City Code, notices for the required public hearing were mailed to owners of land lying within 375 feet of the existing permit area, at least 15 days prior to the public hearing; and

WHEREAS, pursuant to Section 82-94 of the City Code, the City Commission shall review the Revocable Permit request, and determine whether the request shall be granted or denied, following the public hearing; and

WHEREAS, the Public Works Department has analyzed the criteria contained in Code Section 82-94; a summary of the Public Works Department's review and recommendation to grant the Revocable Permit request is set forth in the Commission Memorandum accompanying this Resolution, which Memorandum is incorporated by reference herein.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission, following a duly noticed public hearing, as required pursuant to City Code Section 82-93(b), finding that the criteria set forth in Section 82-94 of the City Code has been satisfied, and approving a Revocable Permit request by 544 Lakeview Court Irrevocable Trust (the "Applicant") for the residential property located at 544 Lakeview Court, Miami Beach (the "Property") to allow for seawall repair and reinforcement with such seawall approximately three (3) feet wide and approximately 209 feet in length, and currently encroaching five (5) feet nine (9) inches (at its maximum dimension) into City submerged lands; and with the proposed repair of the seawall further encroaching into City submerged lands to a maximum dimension of nine (9) feet two (2) inches, for a total of 1,599 square feet; further authorizing the Mayor and the City Clerk to execute the Revocable Permit.

PASSED and ADOPTED this 14 day of October, 2020.



DAN GELBER, MAYOR

ATTEST:

RAFAEL E. GRANADO, CITY CLERK

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

City Attorney

10-6-20

Date

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Jimmy L. Morales, City Manager
DATE: October 14, 2020

9:05 a.m. Public Hearing

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, FOLLOWING A DULY NOTICED PUBLIC HEARING, AS REQUIRED PURSUANT TO CITY CODE SECTION 82-93(B), FINDING THAT THE CRITERIA SET FORTH IN SECTION 82-94 OF THE CITY CODE HAS BEEN SATISFIED, AND APPROVING A REVOCABLE PERMIT REQUEST BY 544 LAKEVIEW COURT IRREVOCABLE TRUST (THE "APPLICANT") FOR THE RESIDENTIAL PROPERTY LOCATED AT 544 LAKEVIEW COURT, MIAMI BEACH (THE "PROPERTY") TO ALLOW FOR SEAWALL REPAIR AND REINFORCEMENT WITH SUCH SEAWALL APPROXIMATELY THREE (3) FEET WIDE AND APPROXIMATELY 209 FEET IN LENGTH, AND CURRENTLY ENCROACHING FIVE (5) FEET NINE (9) INCHES (AT ITS MAXIMUM DIMENSION) INTO CITY SUBMERGED LANDS; AND WITH THE PROPOSED REPAIR OF THE SEAWALL FURTHER ENCROACHING INTO CITY SUBMERGED LANDS TO A MAXIMUM DIMENSION OF NINE (9) FEET TWO (2) INCHES, FOR A TOTAL OF 1,599 SQUARE FEET; FURTHER AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE THE REVOCABLE PERMIT.

RECOMMENDATION

The Administration recommends approving the Resolution.

BACKGROUND/HISTORY

544 Lakeview Court Irrevocable Trust (the Applicant) is requesting the approval of a revocable permit for the residence located at 544 Lakeview Court ("the Property"), to allow for the seawall repair/reinforcement behind the Property. The existing seawall is approximately three (3) feet wide and approximately 209 feet in length. The seawall currently encroaches 5 feet 9 inches onto City owned submerged lands at its maximum dimension. The proposed repair of the existing seawall which will expand the encroachment to a maximum dimension of nine (9) feet two (2) inches; for a total area of 1,599 square feet.

Resolution No. 2016-29454 was adopted by the City Commission on June 8, 2016, and amended the City's Stormwater Management Master Plan to incorporate modifications to the standards for construction, including a minimum required seawall height. Section 9.2.5 ("Seawall Heights") was modified as follows: "All new seawalls on private construction and all

seawalls constructed on public projects shall have a minimum elevation of 5.7 feet, NAVD, however, on existing private seawalls that are being replaced/repared not associated with new building construction, a minimum 4.0 feet NAVD elevation shall apply with the structural design to accommodate a seawall height extension to a minimum 5.7 NAVD."

On October 17, 2018, the City Commission adopted Ordinance No. 2018-4220 on October 17, 2018, which allows for the construction of new seawalls to encroach on City submerged lands and provides for a cost-efficient manner for such construction. New seawalls that encroach no more than four (4.0) feet into the submerged lands do not require a Revocable Permit.

At its September 16, 2020 meeting, Public Works staff explained the Applicant's need for the seawall repair, which entailed repairing and fortifying a seawall already encroaching into City land. During the public hearing, it was also stated by Public Works staff that this would be the first Revocable Permit request of its kind. Historically, the Public Works procedure for any seawall encroaching greater than four (4) feet into City submerged land, was to have it removed, and rebuild it on private property. In this case, the Applicant has proposed to not remove the seawall, as it would be environmentally damaging. Instead, the Applicant proposed to repair the seawall and rebuild it. This will of course, result into a further encroachment into the City submerged lands.

The Revocable Permit request was deferred to the next Commission meeting (October 14th), so there could be more time to review the request.

Subsequent to the Commission meeting, staff has met with the Applicant's representative and engineer. The engineer has provided an Environmental and Structural Impact Review. A cost analysis has also been provided that substantiates that the alternative of removing and reconstructing a new seawall would be in excess of four times the amount of the proposed repair. The repair has already received approval from the Florida DEP and the U.S. Army Corps of Engineers.

ANALYSIS

The Applicant's need is substantial to minimize potential environmental and neighboring property impacts associated with the removal of the existing wall and construction of a new wall within the private property.

Pursuant to Section 82-93(a) of the City Code, notices of the public hearing have been mailed to owners of land lying within 375 feet of the existing permit area at least 15 days prior to the public hearing. Public Works has analyzed the criteria contained in Section 82-94.

Additionally, pursuant to Section 82-94, of the City Code, the City Commission shall review the Revocable Permit request and determine whether the request shall be granted or denied based upon the following criteria:

- That the Applicant's need is substantial.

The City implemented new regulations for seawalls to address sea level rise, which required property owners to increase the minimum height of their existing seawalls from 3.2 ft. NAVD, to a minimum height of 4.0 ft. NAVD. The new regulations require that the Applicant demonstrate that the existing seawall can accommodate an additional load

to increase the height of the seawall in the future up to 5.7 ft. NAVD.

In order for the Applicant to comply with the City's new regulations, only two options are available: (1) to remove the existing seawall and construct an entirely new seawall which can comply with the new height and load requirements; or (2) add additional support and reinforcement to the existing seawall to increase the height to the new minimum and demonstrate the ability to accommodate the load requirements of the additional height.

When reviewing and analyzing these options, the Applicant identified significant risks if it were to remove and construct a new seawall:

- Significant environmental impacts - Removal of the existing seawall, and excavation landward of the existing seawall back to the Property line, has the potential for environmental impact. The impact is caused by the significant turbid water condition that clouds and/or smothers seagrass communities and other marine resources of significance such as corals, sponges, and tunicates within the vicinity of the project footprint during demolition, removal, and reconstruction. This potential for loss of soil and sedimentation of the bay bottom/Surprise Lake is significant and would result in habitat loss. Further, since the seawall is currently at an elevation of 1.88 ft. NAVD, over-topping from high tides and waves is a common occurrence which is currently destabilizing the property shoreline, and creating erosion and sedimentation.
- Potential impacts to neighboring properties - If the existing seawall were to be demolished, the demolition could potentially damage the neighboring seawall, and could de-stabilize the neighboring property and shoreline, creating additional environmental impact/risk from the potential for seawall failures and/or soil loss through gaps or leaks. The impact to neighboring properties can be mitigated through the use of return walls and shoring to prevent soil loss and sedimentation into the bay/Surprise Lake (but the risk of damage by removing the existing seawall is significant and should be avoided given the practical alternatives of reinforcement of the existing seawall rather than removal).
- The Applicant holds title to the abutting property.

The property is the Applicant for the Revocable Permit and holds title to the Property.

- The proposed improvements comply with applicable codes, ordinances, regulations, neighborhood plans and laws.

The proposed seawall complies with all applicable codes, ordinances, regulations, neighborhood plans and laws.

- The grant of such permit application will have no adverse effect on governmental/utility easements and uses on the property.

The encroachment does not impact or interfere with navigability, or the City's use of the submerged lands. Moreover, there are no easements in this location.

- The grant of the Revocable Permit will enhance the neighborhood and/or community by such amenities as, for example, but without limiting the foreground, enhanced

landscaping, improved drainage, improved lighting, improved security and/or public benefits proffered by the Applicant.

The City has recognized significant impacts as a result of sea level rise, and modified the City's seawall requirements to address these concerns. If this improvement is not made, the shoreline will continue to be impacted by higher tide levels, and the damage resulting from wave and water over-topping on to the homeowner's and City-owned property. Without the requested improvements, the existing seawall will fail, resulting in significant water quality and environmental impacts. As such, these improvements enhance the community by stabilizing the shoreline, protecting water quality for the enjoyment of the general public in Surprise Lake, and by ensuring safe navigability.

- That granting the Revocable Permit request will not confer on the Applicant any special privilege that is denied by this article to other owner of land, structures or buildings subject to similar conditions located in the same zoning district.

This process is available to all property owners similarly situated who require reinforcement to their existing seawalls in order to comply with the City's new seawall requirements.

- That granting the Revocable Permit will be in harmony with the general intent and purpose of this article, and that such Revocable Permit will not be injurious to surrounding properties, the neighborhood, or otherwise detrimental to the public welfare.

As identified in the responses to 1 and 3 above, this request is in harmony with the general intent and purpose of the City's Revocable Permit provisions, and benefits neighboring properties, the neighborhood, and community at large, as previously recognized and identified by the City Commission.

CONCLUSION

In 2019, the City Commission recognized these substantial and significant risks if a property owner was required to remove its existing seawall and construct a new seawall, and provided all owners similarly situated to submit an application for a Revocable Permit to allow for minor encroachments into City owned property to allow for reinforcement of their existing seawalls (to comply with the City's new seawall requirements, and therefore eliminating environmental impacts and potential impacts to neighboring property owners). This will be the first of such applications. The proposed repair will further encroach to a maximum dimension of nine (9) feet two (2) inches for a total of 1,599 square feet (as measured from the property line the wetface of the proposed new seawall cap) along the curve of their property line into City owned property.

Results from the 2019 Resident Survey related to the overall ratings for the City of Miami Beach show that 50% of residents rated City efforts to manage stormwater drainage and flooding as excellent/good. In order to continue maintaining excellent standards in this area, the Administration recommends approving the revocable permit.

The Administration recommends approving the Resolution.

Applicable Area

Middle Beach