

MIAMI BEACH

PLANNING DEPARTMENT
Staff Report & Recommendation

Design Review Board

TO: DRB Chairperson and Members

DATE: November 1, 2022

FROM: Thomas R. Mooney, AICP
Planning Director



SUBJECT: DRB22-0874
1610 Bay Drive

An application has been filed requesting Design Review Approval for the construction of a new two-story single-family home, including one or more waivers, on a vacant lot.

RECOMMENDATION:
Approval with conditions

LEGAL DESCRIPTION:
See attached 'Exhibit A'.

SITE DATA:

Zoning: RS-3
Future Land Use: RS
Lot Size: 13,555 SF
Lot Coverage:
 Proposed: 4,046 / 29.8%
 Maximum: 4,067 SF / 30%
Unit size:
 Proposed: 6,549 SF / 48.3%
 Maximum: 6,778 SF / 50%
Height:
 Proposed: 24'-0" flat roof
 Maximum: 24'-0" flat roof

Adjusted Grade: 6.02' NGVD
First Floor Elevation: +9' NGVD (BFE+ 1' FB)

EXISTING PROPERTY:

Year: 1950
Architect: Carlos B. Schoeppl
Vacant: Yes

SURROUNDING PROPERTIES:

East: One-story 1950 residence
North: One-story 1940 residence
South: Biscayne Bay
West: One-story 1940 residence

Grade: +4.04' NGVD
Base Flood Elevation: +8.00' NGVD

THE PROJECT:

The applicant has submitted plans entitled "NORMANDY RESIDENCE" as designed by **Praxis Architecture & Design**, signed and sealed 09/06/2022. The applicant is proposing a new, two-story single-family residence on a vacant lot.

The applicant is requesting the following waiver:

1. The two-story side (east) elevation is in excess of 60'-0" in length in accordance with Section 142-106(2)(d).

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:

- Two-story side elevations located parallel to a side property line shall not exceed 50 percent of the lot depth, or 60 feet, whichever is less, without incorporating additional open space, in excess of the minimum required side yard, directly adjacent to the required side yard:
 - a. The additional open space shall be regular in shape, open to the sky from grade, and at least eight feet in depth, measured perpendicular from the minimum required side setback line.
 - b. The square footage of the additional open space shall not be less than one percent of the lot area.
 - c. The elevation (height) of the open space provided shall not exceed the maximum permitted elevation height of the required side yard, and
 - d. At least 50 percent of the required interior open space area shall be sodded or landscaped with pervious open space.

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.

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.
Satisfied.
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.
Satisfied. The applicant is requesting one design waiver from the Board.
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.
Satisfied
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.

Satisfied.

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.

Satisfied. The applicant is requesting one design waiver from the Board.

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.

Satisfied. The applicant is requesting one design waiver from the Board.

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.

Satisfied

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).

Satisfied. The applicant is requesting one design waiver from the Board.

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 Applicable

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 Applicable

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 Applicable

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.

Not Applicable

18. In addition to the foregoing criteria, subsection [118-]104(6)(t) of the city Code shall apply to the design review 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

19. The structure and site complies with the sea level rise and resiliency review criteria in Chapter 133, Article II, as applicable.

Not Satisfied; see below

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

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

1. A recycling or salvage plan for partial or total demolition shall be provided.

Not Satisfied

A recycling plan shall be provided as part of the submittal for a demolition/building permit to the building department.

2. Windows that are proposed to be replaced shall be hurricane proof impact windows.

Satisfied

3. Where feasible and appropriate, passive cooling systems, such as operable windows, shall be provided.

Satisfied

4. Resilient landscaping (salt tolerant, highly water-absorbent, native or Florida friendly plants) shall be provided, in accordance with Chapter 126 of the City Code.

Satisfied

5. The project applicant shall consider the adopted sea level rise projections in the Southeast Florida Regional Climate Action Plan, as may be revised from time-to-time by the Southeast Florida Regional Climate Change Compact. The applicant shall also specifically study the land elevation of the subject property and the elevation of surrounding properties.

Satisfied

6. The ground floor, driveways, and garage ramping for new construction shall be adaptable to the raising of public rights-of-ways and adjacent land and shall provide sufficient height and space to ensure that the entry ways and exits can be modified to accommodate a higher street height of up to three (3) additional feet in height.

Satisfied

7. In all new projects, all critical mechanical and electrical systems shall be located above base flood elevation. Due to flooding concerns, all redevelopment projects shall, whenever practicable, and economically reasonable, move all critical mechanical and electrical systems to a location above base flood elevation.

Satisfied

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

Not Applicable

9. When habitable space is located below the base flood elevation plus City of Miami Beach Freeboard, wet or dry flood proofing systems will be provided in accordance with Chapter of 54 of the City Code.

Not Applicable

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

Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.

11. Cool pavement materials or porous pavement materials shall be utilized.

Satisfied; additional information will be required at the time of building permit in order to demonstrate compliance.

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

Partially Satisfied; staff recommends a green roof on the on-story garage structure

STAFF ANALYSIS:

DESIGN REVIEW

The applicant is proposing to construct a new two-story residence on a vacant waterfront site on the south shore of Normandy Isles. This application is requesting one design waiver.

The design waiver requested for review relates to the open space requirement for two-story elevations that exceed 60'-0" in length; specifically, for the east (interior) elevation that is 69'-2" long. The subject elevation is sited along an angled (non-parallel) property line and steps back from the required setback. The result is an elevation with recessed planes from the property line, which coupled with a length of 69'-2" along a 170' long property line mitigates the two-story massing's impact. Staff finds that the subject elevation meets the intent of the code and is supportive of the waiver request.

The proposed residence is designed in a modern style. Two-storied in height, a one-story garage and open carport are sited at the front of the site, pushing back the two-story massing and minimizing its impact on the street. The design exhibits pronounced eaves and eyebrows that at times, specifically at the carport and at the roof deck canopy, are supported by stylized V-columns. Predominately clad in rectangular gray stone, white stucco eaves, slab edges and architectural features contrast with the darker walls. Overall, staff is supportive of the design with the requested waiver, but does recommend the inclusion of green roofs, at a minimum on the garage structure, as well as the incorporation of fenestration on the two-story west elevation. As such, staff recommends the approval of this application with the noted conditions.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends the application be **approved with conditions**, subject to the conditions enumerated in the attached Draft Order, which address the inconsistencies with the aforementioned Design Review and Sea Level Rise criteria.

Exhibit A

Legal Description:

All of Lot 9 and the Southwesterly 1/2 of Lot 10, in Block 26, of "TROUVILLE SECTION ISLE OF NORMANDY", according to the Plat thereof, recorded in Plat Book 25 at Page 56 of the Public Records of Miami-Dade County, Florida; together with all common law and statutory riparian rights and water privileges appurtenant and adjacent or belonging thereto;

Also that part of a 5 foot strip of land conveyed by the Trustees of the Internal Improvement Fund of the State of Florida to Jessie L. Pape, a widow by deed, dated October 2, 1936 and recorded in Deed Book 1742, Page 102, of the Public Records of Miami-Dade County, Florida, lying southeasterly and contiguous to the Southeasterly boundary of Lot 9 and the Southwesterly 1/2 of Lot 10, in Block 26, of Trouville Section of Isle of Normandy, according to the plat thereof recorded in Plat Book 25 at page 56 of the Public Records of Miami-Dade County, Florida, said 5 foot strip being of uniform width and lying between Westerly line of said Lot 9 and Easterly line of said Southwesterly 1/2 of Lot 10 extended into Biscayne Bay; together with all riparian rights, appurtenant, adjacent or belonging thereto.

It is intended to convey hereby all of Lot 9, and that portion of Lot 10 lying between said Lot 9 and a straight line extending from mid-point of the northerly line of Lot 10 on Bay Drive to the mid-point of the southerly line of Lot 10 on Biscayne Bay and thence continuing into Biscayne Bay to include 5 foot strip above described.

DESIGN REVIEW BOARD
City of Miami Beach, Florida

MEETING DATE: November 1, 2022

PROPERTY/FOLIO: **1610 Bay Drive** **02-3210-001-1020**

FILE NO: DRB22-0874

IN RE: An application has been filed requesting Design Review Approval for the construction of a new two-story single-family home, including one or more waivers, on a vacant lot.

LEGAL: See attached 'Exhibit A'

APPLICANT: Malisa Miami LLC

ORDER

The City of Miami Beach Design Review 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. Design Review

- A. The Board has jurisdiction pursuant to Section 118-252(a) of the Miami Beach Code. The property is not located within a designated local historic district and is not an individually designated historic site.
- 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 is inconsistent with Design Review Criteria 9 and 19 in Section 118-251 of the Miami Beach Code.
- C. 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 is inconsistent with Sea Level Rise Criteria 1 in Section 133-50(a) of the Miami Beach Code
- D. The project would be consistent with the criteria and requirements of Section 118-251 and/ or Section 133-50(a) if the following conditions are met:
 - 1. Revised elevation, site plan, and floor plan drawings for the proposed new home at 1610 Bay Drive shall be submitted, at a minimum, such drawings shall incorporate the following:
 - a. The open space waiver for the west, side elevation shall be approved as proposed.

- b. The final design details, material and grey stone wall cladding shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - c. The design shall incorporate a green roof on the one-story garage structure, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - d. The west (side) elevation shall be revised to include fenestration along its two-story grey stone elevation, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - e. The final design details of the exterior materials and finishes shall be submitted, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board.
 - f. A copy of all pages of the recorded Final Order shall be scanned into the plans submitted for building permit, and shall be located immediately after the front cover page of the permit plans.
 - g. Prior to the issuance of a Certificate of Occupancy, the project Architect shall verify, in writing, that the subject project has been constructed in accordance with the plans approved by the Planning Department for Building Permit.
2. A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding plans 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 plans shall comply with Chapter 26-Landscape Requirements of the Miami Beach Code and shall incorporate the following:
- a. Prior to the issuance of a building permit, the applicant shall submit a tree protection plan for all trees to be retained on site. Such plan shall be subject to the review and approval of staff, and shall include, but not be limited to a sturdy tree protection fence installed at the dripline of the trees prior to any construction.
 - b. In order to identify, protect and preserve mature trees on site, which are suitable for retention and relocation, a Tree Report prepared by a Certified Tree Arborist shall be submitted for the mature trees on site.
 - c. Any tree identified to be in good overall condition shall be retained and protected in their current location if they are not in conflict with the proposed home, or they shall be relocated on site, if determined feasible, subject to the review and approval of staff. A tree care and watering plan also prepared by a Certified Arborist shall be submitted prior to the issuance of a Building Permit or Tree Removal/Relocation Permit. Subsequent to any approved

relocation, a monthly report prepared by a Certified Arborist shall be provided to staff describing the overall tree performance and adjustments to the maintenance plan in order to ensure survivability, such report shall continue for a period of 18 months unless determined otherwise by staff.

- d. Existing trees to be retained on site shall be protected from all types of construction disturbance. Root cutting, storage of soil or construction materials, movement of heavy vehicles, change in drainage patterns, and wash of concrete or other materials shall be prohibited.
- e. The proposed and existing trees located within the swale shall be subject to the review and approval of Green Space and CIP.
- f. Street trees shall be required within the swale at the front of the property if not in conflict with existing utilities, in a manner to be reviewed and approved by the Public Works Department. Any new street trees shall be of a consistent canopy tree species as similar to the neighboring trees along the street.
- g. The applicant shall install street trees adjacent to the subject property consistent with the City's Street Tree Master Plan or similar to existing species along the street, in a manner to be reviewed and approved by staff consistent with the Design Review Criteria and/or the directions from the Board, and root barriers shall be installed along the sidewalk in conjunction with structural soils.
- h. Any existing plant material within the public right-of-way may be required to be removed, as the discretion of the Public Works Department.
- i. 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. Right-of-way areas shall also be incorporated as part of the irrigation system.
- j. The utilization of root barriers and/or Silva Cells, as applicable, shall be clearly delineated on the revised landscape plan.
- k. Prior to the issuance of a Certificate of Occupancy, the Landscape Architect or the project architect shall verify, in writing, that the project is consistent with the site and landscape plans approved by the Planning Department for Building Permit.

In accordance with Section 118-262, the applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust may seek review of any order of the Design Review Board by the city commission, except that orders granting or denying a request for rehearing shall not be reviewed by the commission.

II. Variance(s)

- A. No variances were filed as part of the application.

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. Design Review Approval and 'II. Variances' noted above.

- A. The applicant shall submit a Hold Harmless Covenant Running with the Land to the City Attorney's Office in a form acceptable to the City Attorney indemnifying and holding harmless the city against any claim or loss in the event of an accident involving a motor vehicle or other instrumentality due to the reduction in width of the drive aisles internal to the site.
- B. In the event Code Compliance receives complaints of unreasonably loud noise from mechanical and/or electrical equipment, and determines the complaints to be valid, even if the equipment is operating pursuant to manufacturer specifications, the applicant shall take such steps to mitigate the noise with noise attenuating materials as reviewed and verified by an acoustic engineer, subject to the review and approval of staff based upon the design review or appropriateness criteria, and/or directions received from the Board.
- C. During Construction work, the Applicant will maintain gravel at the front of the construction site to mitigate disturbance of soil and mud by related personal vehicles existing and entering the site and with an 8'-0" high fence with a wind resistant green mesh material along the front of the property line. All construction materials, including dumpsters and portable toilets, shall be located behind the construction fence and not visible from the right-of-way. All construction vehicles shall either park on the private property or at alternate overflow parking sites with a shuttle service to and from the property. The Applicant shall ensure that the contractor(s) observe good construction practices and prevent construction materials and debris from impacting the right-of-way.
- D. A Construction Parking and Traffic Management Plan (CPTMP) shall be approved by the Parking Director pursuant to Chapter 106, Article II, Division 3 of the City Code, prior to the issuance of a Building Permit.
- E. The final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- F. The Final Order shall be recorded in the Public Records of Miami-Dade County, prior to the issuance of a Building Permit.
- G. 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.
- H. 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.

- I. The conditions of approval herein are binding on the applicant, the property's owners, operators, and all successors in interest and assigns.
- J. 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.

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 Finding of Fact, to which the applicant has agreed.

PROVIDED, the applicant shall build substantially in accordance with the revised plans entitled "NORMANDY RESIDENCE" as designed by **Praxis Architecture & Design**, signed and sealed 09/06/2022, and as approved by the Design Review 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 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 Building permit, the plans submitted to the Building Department for permit shall be consistent with the plans approved by the Board, modified in accordance with the conditions set forth in this Order.

If the Full Building Permit for the project is not issued within eighteen (18) months of the meeting date at which the original approval was granted, the application will expire and become null and void, unless the applicant makes an application to the Board for an extension of time, in accordance with the requirements and procedures of Chapter 118 of the City Code, the granting of any such extension of time shall be at the discretion of the Board. If the Full Building Permit for the project shall expire for any reason (including but not limited to construction not commencing and continuing, with required inspections, in accordance with the applicable Building Code), the application will expire and become null and void.

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

Dated _____.

DESIGN REVIEW BOARD
THE CITY OF MIAMI BEACH, FLORIDA

BY: _____
Michael Belush, AICP
Chief of Planning and Zoning
For Chairman

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

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by Michael Belush, Chief of Planning and Zoning of the City of Miami Beach, Florida, a Florida Municipal Corporation, on behalf of the Corporation. He is personally known to me.

{NOTARIAL SEAL}

Notary:
Print Name
Notary Public, State of Florida
My Commission Expires:
Commission Number:

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

Filed with the Clerk of the
Design Review Board on: _____ (_____)

Exhibit A

Legal Description:

All of Lot 9 and the Southwesterly 1/2 of Lot 10, in Block 26, of "TROUVILLE SECTION ISLE OF NORMANDY", according to the Plat thereof, recorded in Plat Book 25 at Page 56 of the Public Records of Miami-Dade County, Florida; together with all common law and statutory riparian rights and water privileges appurtenant and adjacent or belonging thereto;

Also that part of a 5 foot strip of land conveyed by the Trustees of the Internal Improvement Fund of the State of Florida to Jessie L. Pape, a widow by deed, dated October 2, 1936 and recorded in Deed Book 1742, Page 102, of the Public Records of Miami-Dade County, Florida, lying southeasterly and contiguous to the Southeasterly boundary of Lot 9 and the Southwesterly 1/2 of Lot 10, in Block 26, of Trouville Section of Isle of Normandy, according to the plat thereof recorded in Plat Book 25 at page 56 of the Public Records of Miami-Dade County, Florida, said 5 foot strip being of uniform width and lying between Westerly line of said Lot 9 and Easterly line of said Southwesterly 1/2 of Lot 10 extended into Biscayne Bay; together with all riparian rights, appurtenant, adjacent or belonging thereto.

It is intended to convey hereby all of Lot 9, and that portion of Lot 10 lying between said Lot 9 and a straight line extending from mid-point of the northerly line of Lot 10 on Bay Drive to the mid-point of the southerly line of Lot 10 on Biscayne Bay and thence continuing into Biscayne Bay to include 5 foot strip above described.