

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, FOLLOWING A DULY NOTICED PUBLIC HEARING, APPROVING A REVOCABLE PERMIT REQUEST BY MAC 1045 5TH ST, LLC, FOR THE UNIFIED SITE LOCATED AT 1031 5<sup>TH</sup> STREET, 1045 5<sup>TH</sup> STREET, 527 LENOX AVENUE, AND 543 LENOX AVENUE, IN ORDER TO ALLOW THE PARTIAL ENCROACHMENT OF THE CITY'S RIGHT-OF-WAY BY: (1) BUILDING EYEBROWS, FINS, AND BUILDING SIGNAGE EXTENDING 1'-11", 2'-4 1/2", AND 1', RESPECTIVELY, AND WITH A MAXIMUM OF 2'-4 1/2", INTO THE LENOX AVENUE PUBLIC RIGHT-OF-WAY; AND (2) BUILDING EYEBROWS STRETCHING 11 1/2" INTO THE ADJACENT PUBLIC ALLEY WAY, MICHIGAN COURT; AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE REVOCABLE PERMIT.**

**WHEREAS**, MAC 1045 5th ST, LLC (the "Applicant"), the owner of the properties located at 1045 5th Street, 1031 5th Street, 527 Lenox Avenue, and 543 Lenox Avenue, is requesting a revocable permit to allow the partial encroachment of the City's right-of-way by (1) building eyebrows, fins, and building signage extending 1'-11", 2'-4 1/2", and 1', respectively, into the Lenox Avenue public right-of-way; and (2) building eyebrows stretching 11 1/2" into the adjacent public alley way known as Michigan Court; and

**WHEREAS**, pursuant to Section 82-93(a) of the City Code, on September 12, 2018, the City Commission scheduled the public hearing for October 14, 2018, to consider the request for a revocable permit; 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 based upon the following criteria:

(1) That the applicant's need is substantial.

(2) That the applicant holds title to an abutting property.

(3) That the proposed improvements comply with applicable codes, ordinances, regulations, neighborhood plans and laws.

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

(5) Alternatively:

a. That an unnecessary hardship exists that deprives the applicant of a reasonable use of the land, structure or building for which the revocable permit is sought arising out of special circumstances and conditions that exist and were not self-created and are peculiar to the land, structures or building involved and are not generally applicable to other lands, structures or buildings in the same zoning district and the grant of the application is the minimum that will allow reasonable use of the land, structures or building; or

b. 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.

(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.

(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. In order to grant a revocable permit, the city commission must make an affirmative finding with respect to each of the criteria set forth above. These findings may be made by one motion addressed to all findings or, at the request of any member of the commission, a finding or findings shall be considered separately. The findings shall be made prior to the vote on the application. The revocable permit application shall be considered as a whole unless any member of the city commission shall request that the application be considered in parts, in which event the application shall be considered in such parts as requested. In light of the particular circumstances involved with each separate revocable permit request, the grant of any revocable permit shall not constitute or be deemed a precedent for the grant of any other revocable permit; and

**WHEREAS**, the Mayor and City Commission, based upon the recommendation and analysis completed by the Public Works Department, find that the criteria of Section 82-94, of the City Code, as contained in the cover memorandum to this Resolution, which findings are incorporated by reference herein, have been complied with, and the revocable permit request should be granted.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission, following a duly noticed public hearing, hereby approve a revocable permit request by Mac 1045 5th St, LLC, for the unified site located at 1031 5<sup>th</sup> Street, 1045 5<sup>th</sup> Street, 527 Lenox Avenue, and 543 Lenox Avenue, in order to allow the partial encroachment of the City's right-of-way by: (1) building eyebrows, fins, and building signage extending 1'-11", 2'-4 1/2", and 1', respectively, and with a maximum of 2'-4 1/2", into the Lenox Avenue public right-of-way; and (2) building eyebrows stretching 11 1/2" into the adjacent public alley way, Michigan Court; and authorizing the Mayor and City Clerk to execute the revocable permit.

**PASSED and ADOPTED** this 17<sup>th</sup> day of October, 2018.

**ATTEST:**

\_\_\_\_\_  
Dan Gelber, Mayor

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Rafael E. Granado, City Clerk

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

*Joe Q. ...*  
\_\_\_\_\_  
City Attorney

*10-2-18*  
\_\_\_\_\_  
Date