

**MIAMI SHORES PLANNING AND ZONING BOARD**  
**Planning and Zoning Department Staff Report**

Hearing Date	January 28, 2016	Meeting Time	7:00 P.M.
File Number	PZ-01-16-2016008	Folio Number	11-3205-009-0490
Owner	Jacqueline Barrantes		
Applicant	Same		
Agent	Robert Rossi		
Property Address	9879 NE 13th Avenue		
Legal Description	5 53 42 EARLETON SHORES PB 43-80 LOT 4 BLK 4 LOT SIZE 93.490 X 150 OR 16778-1077 0495 1	Assessor's Building Value	\$531,056
Property Sq. Ft.	14,023	Building Sq. Ft.	3,147
		Flood Zone	VE11
Zoning	R35	Future Land Use Designation	Single Family Residential
Existing Use	One-family dwelling	Comprehensive Plan Consistency	Yes
Existing Structure	1 story; 3 bed/3 bath	Year Built	1954
Subject	Pursuant to Articles IV, V and VI of Appendix A Zoning, Sec. 400 Schedule of Regulations, Sec. 534 and Sec. 600. Site plan review and approval required. Waterfront development. Seawall repair, dock and boatlift.		
Action Required	Approve, Approve with Conditions, or Deny the Application	Other Required Approvals	Village Building Permits MDDRER/EPRD
Staff Report	David A. Dacquisto, Director, Planning and Zoning	Report Date	January 12, 2016

**Background**

The applicant has a residence on Biscayne Bay.

The applicant is proposing to construct a 14 ft. wide dock 13 ft. into Biscayne Bay with an additional 4 ft. wide extension 73 ft. into the bay for a total length of 85 feet. The dock is located 16 ft. from the southerly side plot line and 99 ft. from the northerly side plot line. The applicant is also proposing to construct a 16,000 LB cradle lift beside the dock.

There are no modifications proposed to the seawall or landward on the plot.

The property is located in the VE11 special flood hazard area.

**Analysis**

The Project has preliminary approval from Miami-Dade RER Natural Resources Division (formerly DERM).

The proposed work is located outside the D5 Triangle:

**The Miami-Dade Department of Regulatory and Economic Resources – Environmental Resources Management uses the “CLASS I Permit Application For Coastal Construction and Mangrove Trimming within Miami-Dade County” to review and permit the construction of docks.**

The following information is contained within that document:

**What is a Class I permit?**

Section 24-48 of the Miami-Dade County Code requires that a Miami-Dade County Class I permit be obtained prior to performing any work in, on, over or upon tidal waters or coastal wetlands anywhere in Miami-Dade County including any of the municipalities located within the county. This permitting requirement applies to most work with the exception of a few specific types of minor projects listed on page 6 of this package. A Class I Permit is also required for most mangrove trimming, alteration or removal.

**What other permits are needed before I can start work?**

The following is a list of other agencies that may have jurisdiction over these projects and some or all require you to obtain a permit for your project. Please be advised that their involvement will depend upon the location, nature, type and size of the project. Please refer to the enclosed list of permitting contacts for names, addresses and telephone numbers:

1. Local Municipality (structural, zoning, building)
2. Construction, Permitting and Building Code Division of RER (if located in unincorporated Miami-Dade County)
3. South Florida Water Management District (SFWMD)
4. Florida Department of Environmental Protection (FDEP)
5. U.S. Army Corps of Engineers (USACE)

**What is a D-5 boundary?**

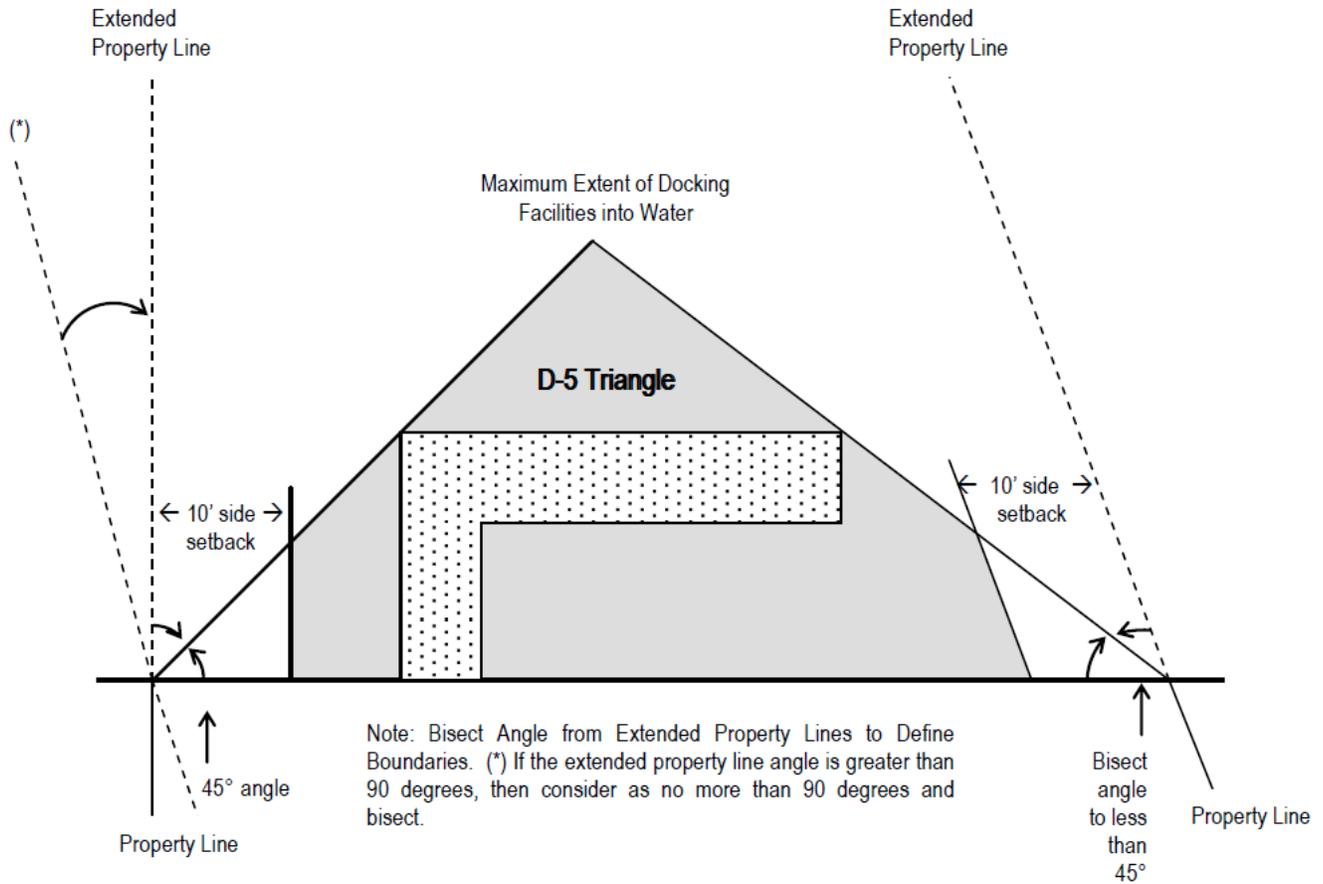
The D-5 boundary is a theoretical boundary waterward of a property, the intent of which is to protect your neighbor’s visual and physical access to the water. Please refer to the enclosed diagram on page 14 of this package.

**What if the project extends beyond the D-5 boundary?**

Projects should be designed to be located within this boundary if at all possible. If, however, a submitted project is designed such that it extends beyond the D-5 boundary(ies), a letter(s) of consent from the adjacent property owner(s) may be necessary.

Note: Please design project within boundaries as indicated if possible

### GUIDELINES FOR SINGLE FAMILY RESIDENTIAL PROPERTY



Piers and docks at right angles to the shoreline, or nearly so, shall be located not closer to the side property line, or said line extended, than a distance equal to the length of the pier or dock itself, provided however, no such distance shall be less than 10 feet.

**CLASS I PERMIT APPLICATION**

**LETTER OF CONSENT**

Note: Please insert applicable information

Date: \_\_\_\_\_

Miami-Dade County RER  
Class I Permitting Program  
701 NW 1st Court  
Miami FL, 33136

Re: Letter of Consent for Miami-Dade County RER Class I Permit Application Number \_\_\_\_\_, (insert Class I Permit application number), for work proposed at \_\_\_\_\_  
(insert address of proposed work)

Ladies and Gentlemen:

I, \_\_\_\_\_ (insert name), am the owner of the property located at \_\_\_\_\_,  
(insert address of adjoining riparian property)

which is an adjoining riparian property to the above-referenced property. I have reviewed the plans entitled \_\_\_\_\_  
(insert title of plans)

prepared by \_\_\_\_\_ dated \_\_\_\_\_, and preliminarily approved by RER on \_\_\_\_\_ for the above-referenced project. Pursuant to Section 24-48.3(1)(j)(iii) of the Code of Miami-Dade County, Florida, I hereby consent to the above-referenced project.

Sincerely,

\_\_\_\_\_  
Adjoining Riparian Property Owner

SUBSCRIBED AND SWORN TO ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_, BY \_\_\_\_\_.

PERSONALLY KNOWN  PRODUCED IDENTIFICATION (PLEASE CHECK ONE)

TYPE OF ID PRODUCED \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

The document sets out the purpose of the D5 Triangle, "The D-5 boundary is a theoretical boundary waterward of a property, the intent of which is to protect your neighbor's visual and physical access to the water."

The document then sets out to protect the D5 Triangle, "Projects should be designed to be located within this boundary if at all possible." The document goes on to say, "If, however, a submitted project is designed such that it extends beyond the D-5 boundary(ies), a letter(s) of consent from the adjacent property owner(s) may be necessary."

The use of the words "may be required," leaves some ambiguity that is not cleared up within the document. It is not clear when the consent of the neighbors is required and when it is not.

The Board previously considered and approved a dock outside the D5 Triangle that did not have the neighbor's consent although it did have Preliminary Approval from DRER.

The neighbor appealed the DRER and Miami Shores Village decision to the Miami-Dade Environmental Quality Board. The decision of DRER and Miami Shores was overturned and the permit was denied.

Staff has reached out to the applicant's representative to provide "Letters of Consent" from neighbors and has been in contact with Christy Haas of DRER to get a response to staff's questions of, when are letters of consent required and under what circumstances are they waved, given the previous experience with a decision being overturned due to the lack of "Letters of Consent" is the waver valid? Staff is awaiting responses.

The answers to these questions are important for this and future applications. Previously Miami-Shores deferred to DRER and if they gave preliminary approval to a project without the "Letter of Consent" from neighbors, Miami-Shores accepted that determination.

## **Recommendation**

Staff recommends tabling this request until we receive answers to the questions raised.

Should the Planning and Zoning Board make the determination to proceed with consideration of the application, staff provides the following recommendation:

In acting on a site plan, the Planning Board must make a finding that the proposed improvements comply with the regulations and are harmonious with the community, as required in Articles IV, V and VI of Appendix A Zoning, Sec. 400 Schedule of Regulations, Sec. 534 and Sec. 600, of the Code of Ordinances, and, in that regard, may add further conditions or delete or modify staff recommended conditions, deny the application, or continue the item for future consideration.

Planning and Zoning staff recommends APPROVAL of the site plan to construct a 14 ft. wide 13 ft. long dock with an additional 4 ft. wide extension 73 ft. into the bay for a total length of 85 feet into the bay, and a 16,000 LB boat lift, based on the foregoing analysis with a finding that it is consistent with the technical provisions of the Code subject to the following conditions.

Should the board find that the applicant merits approval, staff recommends that the following conditions apply:

- 1) Approval is granted to construct a 14 ft. wide 13 ft. long dock with an additional 4 ft. wide extension 73 ft. into the bay for a total length of 85 feet into the bay, and a 16,000 LB boat lift.
- 2) Applicant to secure final approval from the Department of Regulatory and Economic Resources, Natural Resources Division and the Army Corps of Engineers, before a building permit will be issued. MD DRER, NRD.
- 3) Applicant to comply with all requirements of FEMA, the NFIP and the Florida Building Code for construction in the VE11 special flood hazard area.
- 4) Applicant to add not less than four (4) solar lights on the four (4) piles of the boat lift and night time reflectors on all outside posts on the dock.
- 5) Applicant to meet all applicable code provisions at the time of permitting.
- 6) Applicant to obtain a building permit before commencing work.
- 7) This zoning permit will lapse and become invalid unless the work for which it was approved is started within one (1) year of the signing of the development order by the board chair, or if the work authorized by it is suspended or abandoned for a period of at least one (1) year.