



Florida's Warmest Welcome

August 11, 2021

City of Pompano Beach  
Department of Development Services  
Planning and Zoning Division

## RE: Zoning Board of Appeals Application for Variance

The City of Pompano Beach is partnering with Broward County Environmental Protection and Growth Management Department, University of Miami, and Shipwreck Park to provide an underwater marine park at the Hillsboro Inlet/Wahoo Bay, located at 2700 N. Ocean Blvd Pompano Beach, FL 33062. The elements inclusive of this underwater park will promote marine habitat protection, and control beach erosion and provide protection from storm surge. Additionally, this underwater public park will raise awareness to the importance of keeping our oceans and reefs healthy and thriving in an entertaining, educational and memorable way. One feature of this underwater park will include an ancillary dock, finger pier and swim/snorkel platform for park patrons to access the water, thus enabling underwater observation of the artificial reefs and sea life. As a result, the ancillary dock, proposed finger pier, accessible gangway and swim/snorkel platform to be installed adjacent to the existing dock/finger pier, do not comply with all the City's Code of Ordinances, thus, we are seeking relief as follows:

1. **Relief from 151.01 to install 5 boat exclusion buoys at various locations, extending seaward approximately 153' from the property or measurement reference line; and relief from 151.03(D) to encroach into the 5' setback on the south side.**

**Coordinates:**

- 1)26.260119° -80.083776°
- 2)26.260077° -80.083631°
- 3)26.260034° -80.083486°
- 4)26.260163° -80.083431°
- 5)26.260290° -80.083377°

**151.01** The intent of this chapter is to permit construction in, over and upon the waterways within the city of fixed docks, floating docks, floating vessel platforms, wharves, finger piers, boat lifting devices (floating or stationary), dolphin, fender or mooring piles, mooring buoys, and other related structures, which do not interfere with navigation, endanger life or property, or deny the public reasonable access to public waterways. **Structures not similar in nature to those listed herein shall be prohibited.**

**151.03 (D)** No fixed docks, floating docks, wharves, finger piers, boat lifts (floating or stationary), mooring devices, dolphin, mooring or fender piles, mooring buoys **or other similar structures may be erected or installed within five feet of an extended side property line** or cause a watercraft to extend within five feet of an extended side property line unless the following conditions have been met prior to any permit being issued pursuant to the terms of this section:

2. **Relief from 151.01 to install 6 - 20' X 15' X 8' mangrove planters approximately from the measurement reference/property line.**

**151.01** The intent of this chapter is to permit construction in, over and upon the waterways within the city of fixed docks, floating docks, floating vessel platforms, wharves, finger piers, boat lifting devices (floating or stationary), dolphin, fender or



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mooring piles, mooring buoys, and other related structures, which do not interfere with navigation, endanger life or property, or deny the public reasonable access to public waterways. **Structures not similar in nature to those listed herein shall be prohibited**

3. **Relief from 151.03(C)(2) to install a 8'X14' parallel dock with guard rails off the existing perpendicular finger pier beginning approximately 16' from the measurement reference/property line, extending a total of approximately 24' from the measurement reference/property line versus the code provision under 151.03(C)(2) of 8'.**

**151.03(C)(2)** Fixed boat docks, floating docks or wharves may be constructed or installed to extend into any canal, river, basin, or waterway a distance of 10% of the width of the canal, river, basin, or waterway or **a distance of eight feet** whichever is less, as measured from the recorded property line or measurement reference line.

4. **Relief from 151.03(B)(3) to install a second parallel finger pier within 5' of the existing perpendicular dock versus the code distance of not less than 25'.**

**151.03(B)(3)** Fixed finger piers and floating finger piers may be constructed or erected to extend into any canal, river, basin, or waterway a distance of 20% of the width of the canal, river, basin, or waterway or a distance of 20 feet, whichever is less, as measured from the recorded property line or measurement property line. A finger pier (floating or stationary) shall not be constructed to a width greater than four feet. **The distance between finger piers shall not be less than 25 feet.**

5. **Relief from 151.03(B)(3) to install a 62' Finger Pier from the proposed parallel dock extending seaward from the measurement reference/property line a total of approximately 86' versus the code provision under 151.03(B)(3) of 20' with a varying width of 5' and 18.8' versus the code provision under 151.03(B)(3) of a width of 4'.**

**This entails:**

- 28'X 5' access ramp (with guard rails) from the new parallel dock
- 34'X16' floating finger pier with a width of 16' with a side 21'X 2.8' swim platform bringing the total width to 20'.

**151.03(B)(3)** Fixed finger piers and floating finger piers may be constructed or erected to extend into any canal, river, basin, or waterway a distance of 20% of the width of the canal, river, basin, or waterway or a distance of 20 feet, whichever is less, as measured from the recorded property line or measurement property line. **A finger pier (floating or stationary) shall not be constructed to a width greater than four feet.** The distance between finger piers shall not be less than 25 feet.

**\* All structures will comply with ADA standards.**

The anticipated popularity of this facility will attract several swimmers/snorkelers to the pier/gangway accessing the snorkel area, thus it is necessary to provide a minimum 5' wide pier to comply with ADA standards and to ensure the safety of all park patrons. Similarly, the swim/snorkel platform will temporarily occupy multiple people entering and exiting the water, and therefore needs to be adequately sized to also ensure the safety of park patrons.

Please find responses below to each review standard that adequately substantiates competent evidence that all standards are met. Lastly, the proposed location of the platform extends out a total distance of 86' from the measurement reference/property line, whereas the code allows only 20'. Due to the abundance of protected seagrass in this area as identified by a recent seagrass survey, the platform must extend beyond the seagrass growth area to avoid disruption that might otherwise be caused by park patrons entering and exiting the water to observe the underwater marine features.



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### 155.2420 Variance Review Standards:

- a. There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the variance is sought, that do not generally apply to other lands or structures in the vicinity; ***The immediate area adjacent to the existing pier and dock/seawall has protected seagrass and cannot be disturbed per FWC.***
- b. The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner; ***The seagrass is naturally occurring and must be protected. The seagrass also shifts with tidal current, thus does not remain constant in any given area but is rather ubiquitous in this general area.***
- c. Because of the extraordinary and exceptional conditions referred to in paragraph a., above, the application of the Code to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship; ***If this variance is not approved, there is no alternate location to construct an accessible route to the snorkel area to observe/record/learn about reef protection, marine habitat sea life, and the sensitivities of the ocean.***
- d. The variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated. ***Because this project is for public purpose, anyone who wishes to visit this underwater marine park will be afforded the opportunity, thus approval of this variance will benefit everyone, including the environment.***
- e. The extent of variance is the minimum necessary to allow a reasonable use of the land or structure; ***Approval of this variance will allow the construction of a pier, gangway and swim/snorkel platform to facilitate park patrons access to the water without disturbing seagrass and other marine habitat, which this project promotes as part of the artificial reef and other elements.***
- f. The variance is in harmony with the general purpose and intent of the Code and preserves its spirit; ***The request is in harmony with the general purpose and intent of the code and preserves its spirit.***
- g. The variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare; ***This request will not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare. A condition of this proposed underwater marine park requires the installation of (5) exclusionary buoy's delineating the underwater park area, which excludes boating. Consequently, in January 2021 City Commission approved to designate this area as swimming only and thereby amended the Code of Ordinances to include the following language: Amending Code of Ordinances Chapter 91, "Boats and Water Recreation"- Establishing New Section 91.16, "Hillsboro Inlet Park; Public Swim Area".***
- h. The variance is consistent with the comprehensive plan. ***This request is consistent with the comprehensive plan, Policy 01.06.05 – Promote the acquisition, retention and management of unique natural areas in the City to preserve their environmental, recreational and other public benefits.***



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Please note, \*permits have been issued for the design/installation of the (5) exclusionary buoy's, pier, gangway and platform from the following agencies: USCOE, Broward County EEPD, FDEP, FUWM.  
\*Copies provided upon request.

**Enclosures:**

- Zoning Board of Appeals Application
- Proposed Plans (10 copies)
- Project Overview
- Boat Exclusion Buoy Detail
- Executed Deed
- Amended City Ordinance 2021-49

Sincerely,

A handwritten signature in black ink that reads "Tammy Good". The signature is written in a cursive, flowing style.

Tammy Good