

# ITEM VII

## MEMORANDUM MF NO. 22-11

DATE: June 15, 2022

TO: Marine Advisory Board Members

FROM: Andrew Cuba, Marine Facilities Manager

RE: September 1, 2022 MAB Meeting - Dock Waiver of Distance Limitations – Richard Peacey and Katalin Van Den Hurk/ 2631 NE 12<sup>th</sup> Street

Attached for your review is a revised application from Richard Peacey & Katalin Van Den Hurk, 2631 NE 12<sup>th</sup> Street.

### APPLICATION AND BACKGROUND INFORMATION

The applicant is requesting approval for the installation of three (3) triple pile mooring clusters. The proposed pile clusters encroach more than 25' from the property line into the adjacent Seminole Lake, requiring a Dock Waiver of Distance Limitations, as summarized in Table 1 below:

**TABLE 1**

<b>PROPOSED STRUCTURES</b>	<b>STRUCTURE DISTANCE FROM PROPERTY LINE</b>	<b>PERMITTED DISTANCE WITHOUT WAIVER</b>	<b>AMOUNT OF DISTANCE REQUIRING WAIVER</b>
<b>Triple Pile Cluster</b>	<b>+/- 48.8'</b>	<b>25'</b>	<b>+/- 23.8'</b>
<b>Triple Pile Cluster</b>	<b>+/- 48.8'</b>	<b>25'</b>	<b>+/- 23.8'</b>
<b>Triple Pile Cluster</b>	<b>+/- 48.8'</b>	<b>25'</b>	<b>+/- 23.8'</b>

The City's Unified Land and Development Regulations (UDLR) Sec. 47-19.3.D. limits the distance of mooring piles to 25' or 30% of the width of the waterway, whichever is less, from the property line. Section 47-19.3.E authorizes the City Commission to waive that limitation based on a finding of extraordinary circumstances. The applicant indicates that the proposed mooring piling clusters are necessary for safely mooring resident's vessels especially during high winds and severe weather.

### PROPERTY LOCATION AND ZONING

The property is located within the RS 4.4 Residential Single Family / Low Density District, resulting in a 10 foot vessel side yard setback. It is situated on the southern shore of Seminole Lake where the width of the waterway from wet face to wet face is +/- 500 feet, according to the Summary Description.

DOCK PLAN AND BOATING SAFETY

Marine Facilities' records reflect there have been thirteen (13) Waivers of Limitation approved by the City Commission within close proximity to 2631 NE 12<sup>th</sup> Street (**Table 2**).

**TABLE 2**

<b>DATE</b>	<b>ADDRESS</b>	<b>MAXIMUM DISTANCE</b>
<b>1979</b>	<b>1280 Seminole Drive</b>	<b>42'</b>
<b>1980</b>	<b>1224 Seminole Drive</b>	<b>40'</b>
<b>1984</b>	<b>1224 Seminole Drive</b>	<b>51'</b>
<b>1985</b>	<b>1240 Seminole Drive</b>	<b>46'</b>
<b>1990</b>	<b>2701 East Sunrise Blvd</b>	<b>487.4'</b>
<b>1990</b>	<b>2800 Yacht Club Blvd</b>	<b>120'</b>
<b>1994</b>	<b>1256 Seminole Drive</b>	<b>33'</b>
<b>1995</b>	<b>1272 Seminole Drive</b>	<b>40'</b>
<b>2009</b>	<b>1256 Seminole Drive</b>	<b>58'</b>
<b>2009</b>	<b>1224 Seminole Drive</b>	<b>50'</b>
<b>2011</b>	<b>1200 Seminole Drive</b>	<b>50'</b>
<b>2013</b>	<b>1100/1120 Seminole Drive</b>	<b>54.7'</b>
<b>2021</b>	<b>1207 Seminole Drive</b>	<b>48.8'</b>

RECOMMENDATIONS

Should the Marine Advisory recommend approval of the application, the resolution under consideration by the City Commission should include at least the following as prescribed in the ULDR and City Code of Ordinances:

1. The applicant is required to comply with all applicable building and zoning regulations as well as any other Federal and State laws and permitting requirements including the Broward County Environmental Protection and Growth Management Department, the Florida Department of Environmental Protection and the U.S. Army Corps of Engineers.
2. As a general condition of approval and in order to review for final consistency with construction of facilities in accord with this application and City building permits the applicant is required to provide the City's Marine Facilities Supervisor with copies of "As Built" drawings from a certified and licensed contractor.
3. The applicant is required to install and affix reflector tape to the proposed mooring piles in accord with Section 47.19.3.E of the Unified Land and Development Regulations (ULDR).

AC  
Attachment

cc:  
Enrique Sanchez, Deputy Director of Parks and Recreation  
Jon Luscomb, Marine Facilities Supervisor

2631 NE 12th Street  
APPLICATION FOR WATERWAY WAIVER

Cover sheet  
2631 NE 12<sup>th</sup> Street Fort Lauderdale Florida 33304

Dock waiver application

Owner: Richard Peacey and Katalin Van Den Hurk

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2631 NE 12th Street  
APPLICATION FOR WATERWAY WAIVER

**CITY OF FORT LAUDERDALE  
MARINE FACILITIES  
APPLICATION FOR WATERWAY PERMITS, WAIVERS AND LICENSES**

Any agreement with the City of Fort Lauderdale and other parties, such as, but not limited to, licenses, permits and approvals involving municipal docking facilities or private uses in the waterways as regulated by Section 8 of the City Code of Ordinances or Section 47-19.3 of the City's Urban Land Development Regulations, shall be preceded by the execution and filing of the following application form available at the Office of the Supervisor of Marine Facilities. The completed application must be presented with the applicable processing fee paid before the agreement is prepared or the application processed for formal consideration (see City of Fort Lauderdale Code Section 2-157). If legal publication is necessary, the applicant agrees to pay the cost of such publication in addition to the application fee.

**APPLICATION FORM**  
**(Must be in Typewritten Form Only)**

1. LEGAL NAME OF APPLICANT - (if corporation, name and titles of officers as well as exact name of corporation. If individuals doing business under a fictitious name, correct names of individuals, not fictitious names, must be used. If individuals owning the property as a private residence, the name of each individual as listed on the recorded warranty deed):

NAME: Richard Peacey and Katalin Van Den Hurk

TELEPHONE NO: 305 510 7559 \_\_\_\_\_ EMAIL: richard@peaceysystems.com  
(home/cellular) (business)

TELEPHONE NO: 305 778 6570 \_\_\_\_\_ EMAIL: tika@peaceysystems.com  
(home/cellular) (business)

2. APPLICANT'S ADDRESS (if different than the site address): 2631 NE 12<sup>th</sup> Street, Fort Lauderdale, FL, 33304
3. TYPE OF AGREEMENT AND DESCRIPTION OF REQUEST: Waiver of Limitations
3. SITE ADDRESS: 2631 NE 12<sup>th</sup> Street, Fort Lauderdale, FL, 33304  
ZONING: Residential

LEGAL DESCRIPTION AND FOLIO NUMBER: The property is located within the Lot 31, BEACH WAY HEIGHTS UNIT B according to the Plat book 25 , page 27, of the Public Records of Broward County, Florida. It is situated on the southern shore of Seminole Lake where the width of the waterway from wet face to wet face is +/- 500 feet, according to the Summary Description provided in Exhibit 1. Parcel ID: 494236080280

2631 NE 12th Street  
APPLICATION FOR WATERWAY WAIVER

4. EXHIBITS (In addition to proof of ownership, list all exhibits provided in support of the applications).

  
\_\_\_\_\_  
Applicant's Signature

July 17, 2020  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Applicant's Signature

July 17, 2020  
\_\_\_\_\_  
Date

=====  
The sum of \$ \_\_\_\_\_ was paid by the above-named applicant on the \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_ Received by: \_\_\_\_\_  
City of Fort Lauderdale  
=====  
=====  
For Official City Use Only  
=====

**Marine Advisory Board Action**  
Formal Action taken on \_\_\_\_\_

**Commission Action**  
Formal Action taken on \_\_\_\_\_

Recommendation \_\_\_\_\_  
Action \_\_\_\_\_

2631 NE 12th Street  
APPLICATION FOR WATERWAY WAIVER

EXHIBIT II  
SUMMARY DESCRIPTION

Summary Description

2631 NE 12<sup>th</sup> Street

The project site is located on Seminole Lake , 2631 NE 12<sup>th</sup> street, Fort Lauderdale Florida, 33304. Lot 31, BEACH WAY HEIGHTS UNIT B according to the Plat book 25 , page 27, of the Public Records of Broward County, Florida. It is situated on the southern shore of Seminole Lake where the width of the waterway from wet face to wet face is +/- 500 feet, according to the Summary Description provided in Exhibit 1. The nearest direct connection to the Atlantic Ocean is approximately 3 miles to the southeast at the Port Everglades Inlet. As the project site is located along the New River, the incoming tidal waters (flood) at the site move to the west and the outgoing waters (ebb) move to the east.

The project site consists of an existing refurbished 75 ft coral block wall and new composite dock with a 15ft finger pier and three triple cluster mooring pilings at 20' from the property line.

The proposed project consists of adding three triple cluster mooring pilings at 48.8' in line with the current mooring pilings just 23.8' further out. As these distances are over the allowable 25' distance into the waterway from the property line, the proposed mooring piles will require a variance waiver.

The following four (3) matters provide justification for this waiver request:

1. All structures and piles will not exceed 30% of the width of the waterway.
2. Due to the extraordinary width of the waterway at this location from wetface to

2631 NE 12th Street  
APPLICATION FOR WATERWAY WAIVER

wetface (+/- 500 feet) the proposed project will not impede navigation within Seminole Lake.

3. The proposed structures are necessary for safely mooring resident's vessels, especially during high wind events and severe weather.

PROPOSED STRUCTURES	STRUCTURE DISTANCE FROM PROPERTY LINE	PERMITTED DISTANCE WITHOUT WAIVER	AMOUNT OF DISTANCE REQUIRING WAIVER
Mooring Pile	48.8'	25'	23.8'
Mooring Pile	48.8'	25'	23.8'
Mooring Pile	48.8'	25'	23.8'

# 2631 NE 12th Street APPLICATION FOR WATERWAY WAIVER

BCPA PAGE

Broward County Property Appraiser's Network

6/20/22, 12:14 PM



**PROPERTY SUMMARY**

<b>Tax Year:</b> 2022	<b>Property Use:</b> 01-01 Single Family	<b>Deputy Appraiser:</b> Bret Peterson
<b>Property ID:</b> 494236080280	<b>Millage Code:</b> 0312	<b>Appraisers Number:</b> 954-367-6831
<b>Property Owner(s):</b> VAN DEN HURK, KATALIN PEACEY, RICHARD	<b>Adj. Bldg. S.F.:</b> 3970	<b>Email:</b> <a href="mailto:realprop@bcpa.net">realprop@bcpa.net</a>
<b>Mailing Address:</b> 2631 NE 12 ST FORT LAUDERDALE, FL 33304	<b>Bldg Under Air S.F.:</b> 3990	<b>Zoning:</b> RS-4.4 - RESIDENTIAL OF SINGLE FAMILY/LOW DENSITY
<b>Physical Address:</b> 2631 NE 12 STREET FORT LAUDERDALE, 33304	<b>Effective Year:</b> 1996	<b>Abbr. Legal Des.:</b> BEACH WAY HEIGHTS UNIT B 25-27 B LOT 31
	<b>Year Built:</b> 1995	
	<b>Units/Beds/Baths:</b> 1 / 4 / 4	

**PROPERTY ASSESSMENT**

Year	Land	Building / Improvement	Agricultural Saving	Just / Market Value	Assessed / SOH Value	Tax
2022	\$516,450	\$1,129,340	0	\$1,645,790	\$1,342,220	
2021	\$516,450	\$935,210	0	\$1,451,660	\$1,303,130	\$23,973.63
2020	\$516,450	\$842,310	0	\$1,358,760	\$1,285,140	\$23,520.09

**EXEMPTIONS AND TAXING AUTHORITY INFORMATION**

	County	School Board	Municipal	Independent
Just Value	\$1,645,790	\$1,645,790	\$1,645,790	\$1,645,790
Portability	0	0	0	0
Assessed / SOH 17	\$1,342,220	\$1,342,220	\$1,342,220	\$1,342,220
Granny Flat				
Homestead 100%	\$25,000	\$25,000	\$25,000	\$25,000
Add. Homestead	\$25,000	0	\$25,000	\$25,000
Wid/Vet/Dis	0	0	0	0
Senior	0	0	0	0
Exemption Type	0	0	0	0
Affordable Housing	0	0	0	0
Taxable	\$1,292,220	\$1,317,220	\$1,292,220	\$1,292,220

**SALES HISTORY FOR THIS PARCEL**

Date	Type	Price	Book/Page or Cin
05/28/2020	Quit Claim Deed Non-Sale Title Change	\$100	116531072
01/22/2020	Quit Claim Deed Non-Sale Title Change	\$100	116305116
06/15/2016	Warranty Deed Qualified Sale	\$1,604,000	113782369
10/03/2007	Warranty Deed Qualified Sale	\$1,360,000	44761 / 893
12/07/2006	Warranty Deed	\$100	43230 / 380

**LAND CALCULATIONS**

Unit Price	Units	Type
\$55.00	9,390 SqFt	Square Foot

<https://web.bcpa.net/BcpaClient/recinfoprint.html>

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2631 NE 12th Street  
APPLICATION FOR WATERWAY WAIVER

Warranty Deed

PREPARED BY:

David M. Dwares, Esq.  
555 S. Pompano Pkwy  
Pompano Beach, FL 33069

RECORD AND RETURN TO:

GRAY ROBINSON, P.A.  
401 EAST LAS OLAS BLVD. SUITE 1000  
FORT LAUDERDALE, FL 33301

[Space Above This Line For Recording Data]

## Warranty Deed

This Warranty Deed made this 15<sup>th</sup> day of June, 2016 between David X. Chen and Iris Y. Chen, husband and wife whose post office address is 68 Broadview Ave. Apt B2, Toronto, Ontario, Canada M4M 2E6, grantor, and Katalin Van Den Hurk and Richard Peacey, wife and husband whose post office address is 2631 NE 12 Street, Fort Lauderdale, FL 33304, grantee:

*(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)*

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Broward County, Florida to-wit:

**Lot 31, BEACH WAY HEIGHTS UNIT B, according to the plat thereof as recorded in Plat Book 25, Page 27, of the Public Records of Broward County, Florida.**

**Parcel Identification Number: 494236-08-0280**

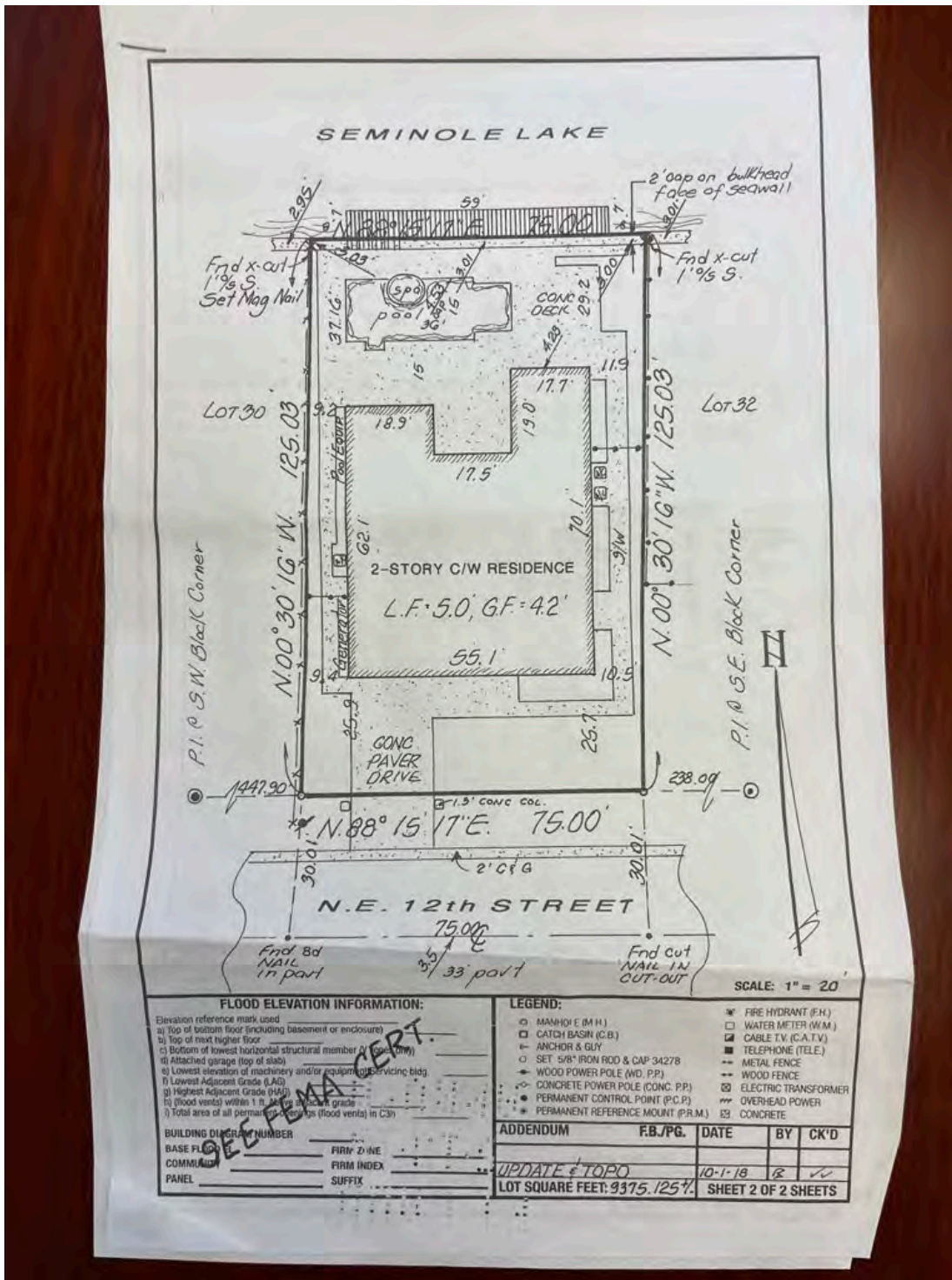
Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2015.

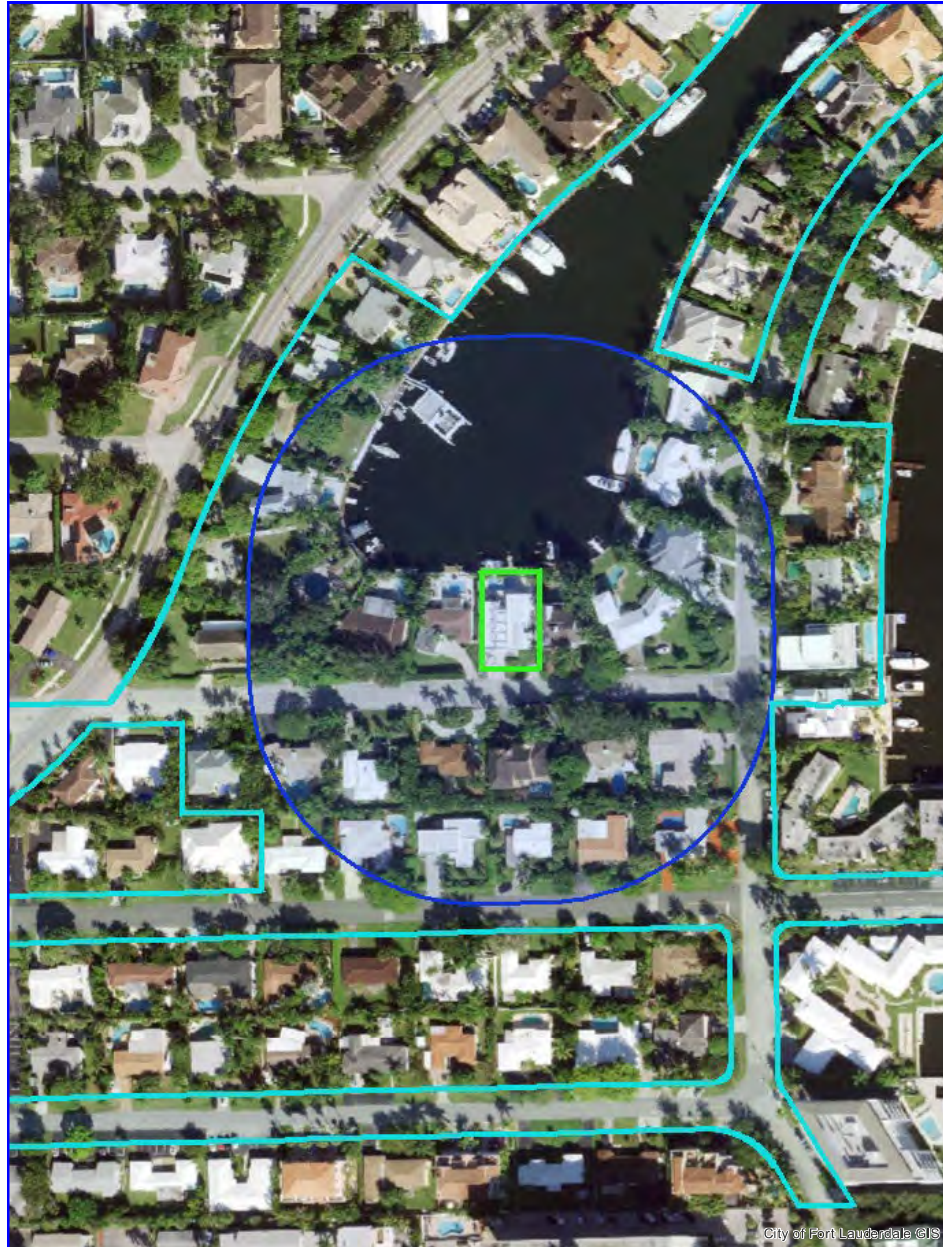
# 2631 NE 12th Street APPLICATION FOR WATERWAY WAIVER

ORIGINAL SURVEY



# 2631 NE 12th Street APPLICATION FOR WATERWAY WAIVER

Zoning Aerial



City of Fort Lauderdale GIS

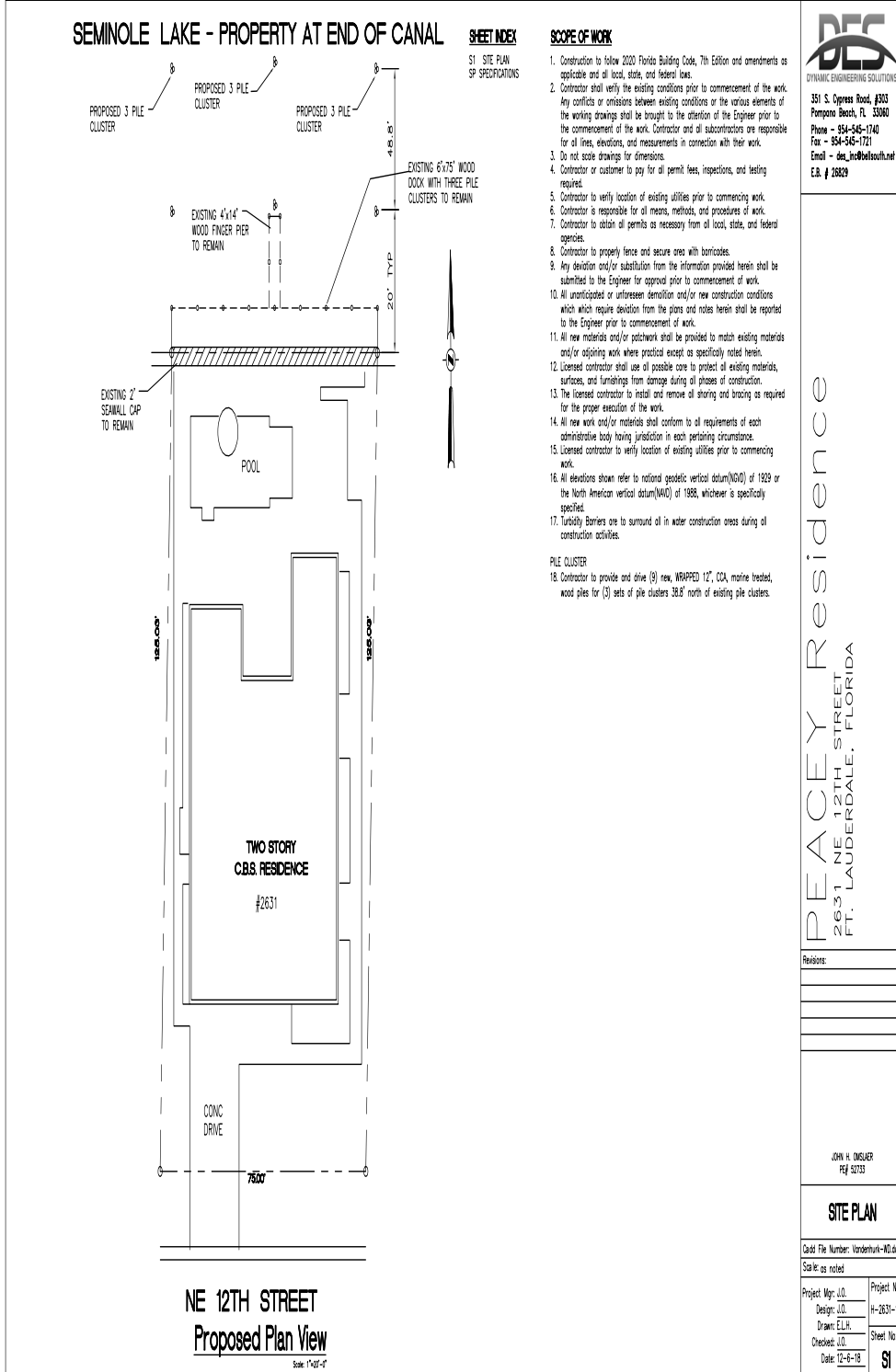


2631 NE 12 Street



# 2631 NE 12th Street APPLICATION FOR WATERWAY WAIVER

## Project Plans



**DES**  
DYNAMIC ENGINEERING SOLUTIONS

351 S. Ogden Road, #303  
Pompano Beach, FL 33060  
Phone - 954-545-1740  
Fax - 954-545-1721  
Email - des\_des@desouth.net  
E.B. # 28829

2631 NE 12th Street  
APPLICATION FOR WATERWAY WAIVER

Photo's



2631 NE 12th Street  
APPLICATION FOR WATERWAY WAIVER



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Sec. 47-19.3. - Boat slips, docks, boat davits, hoists and similar mooring structures.

(a) The following words when used in this section shall, for the purposes of this section, have the following meaning:

- (1) *Mooring device* means a subset of mooring structures as defined herein including boat davits, hoists, boat lifts and similar devices that are erected on or adjacent to a seawall or dock and upon which a vessel can be moored. A mooring device does not include docks, slips, seawall or mooring pile.
- (2) *Mooring structure* means a dock, slip, seawall, boat davit, hoist, boat lift, mooring pile or a similar structure attached to land more or less permanently to which a vessel can be moored.
- (3) *NGVD 29* or the National Geodetic Vertical Datum of 1929 means the vertical control datum established for vertical control surveying in the United States of America by the General Adjustment of 1929. The datum is used to measure elevation or altitude above, and depression or depth below, mean sea level (MSL).
- (4) *NAVD88* or the North American Vertical Datum means the vertical control datum of orthometric height established for vertical control surveying in the United States of America based upon the General Adjustment of the North American Datum of 1988.
- (5) *Seawall* means vertical or near vertical structures placed between an upland area and a waterway. For the purposes of Section 47-19.3(f), rip rap is not considered a seawall.
- (6) *Rip rap* means a foundation of unconsolidated boulders, stone, concrete or similar materials placed on or near a shoreline to mitigate wave impacts and prevent erosion.

(b) Boat davits, hoists and similar mooring devices may be erected on a seawall or dock subject to the following limitations on the number and location as follows:

- (1) Except as provided herein, only one (1) mooring device per the first one hundred (100) feet of lot width or portion thereof, and one mooring device for each additional one hundred (100) feet of lot width. A second mooring device may be permitted within the lot area greater than one hundred (100) feet but less than two hundred (200) feet if approved as a Site Plan Level II permit, subject to the following criteria:
  - a. The location of the proposed mooring device will not interfere with the view from adjacent properties to a degree greater than the intrusion already permitted as a result of the berthing of a vessel at applicant's property within the setback and extension limitations provided in the Code.
  - b. The type of mooring device is the least intrusive and most compatible with the view from the waterway.
  - c. No conflict with a neighboring property owner's usage of the waterway will be created as a result of the additional mooring device.

Pursuant to Site Plan Level II review, the development review committee ("DRC") shall determine whether the proposed additional mooring device meets the criteria based on its location and the relationship of applicant's property to abutting properties with regard to height, angle of view of the device from abutting properties and the height, width and length of the mooring device proposed.

Approval of a Site Plan Level II development permit for an additional mooring device shall not be final until thirty (30) days after preliminary DRC approval and then only if no motion is approved by the City Commission seeking to review the application pursuant to the process provided in Section 47-26. The denial of an application for an additional mooring device may be appealed to the City Commission in accordance with the provisions of Section 47-26.

- (2) In addition to the mooring device described in paragraph (b)(1) of this section, one (1) lift designed and used solely for the lifting of a personal watercraft (PWC) per development site is permitted. For purposes of this subsection (2) a PWC is as defined in F.S. Ch. 327.
  - (3) The cross section of the davit, hoist or other mooring device shall not exceed one (1) square foot and have a maximum height of six and one-half (6½) feet above lot grade.
  - (4) The lowest appendage of a vessel may not be hoisted greater than one (1) foot above a seawall cap or if no seawall, above the average grade of the upland property and properties abutting either side of the upland property, whichever is less.
- (c) No boat slips, docks, boat davits, hoists, and similar mooring structures not including mooring or dolphin piles or a seawall, may be constructed by any owner of any lot unless a principal building exists on such lot and such lot abuts a waterway. Mooring structures, not including mooring or dolphin piles, shall not extend into the waterway more than twenty-five (25) percent of the width of the waterway or twenty-five (25) feet whichever is less as measured from the property line.
- (d) Mooring or dolphin piles, shall not be permitted to extend more than thirty (30) percent of the width of the waterway, or twenty-five (25) feet beyond the property line, whichever is less.
- (e) The City Commission may waive the limitations of Sections 47-19.3.(c), 47-19.3.(d) and 47-39.A.1.b.(12).(a) and 47-39.A.1.b.(12).(b) under extraordinary circumstances, provided permits from all governmental agencies, as required, are obtained after approval of the City Commission, after a public hearing and notification to property owners within three hundred (300) feet. In no event shall the extension exceed thirty (30) percent of the width of the waterway and no variance may be approved by the Board of Adjustment or other agency permitting an extension beyond the thirty percent (30%) limitation. Reflector tape shall be affixed to and continually maintained on all mooring or dolphin piles authorized under this subsection to extend beyond the limitations provided in subsection (d). The reflector tape must be formulated for marine use and be in one (1) of the following uniform colors: international orange or iridescent silver. On all such piles, the reflector tape shall be at least five (5) inches wide and within eighteen (18) inches of the top of the pile.
- (f) The top surface of a seawall shall have a minimum elevation of 3.9 feet NAVD88 (see table). The elevation of a seawall or dock shall not exceed a maximum of the base flood elevation (BFE) as identified in the corresponding FEMA Flood Insurance Rate Map (FIRM) for the property, except as specifically set forth herein. For properties with a BFE of 4.0 feet NAVD88, the minimum seawall elevation shall meet 3.9 feet NAVD88 and the maximum seawall or dock elevation shall be 5.0 feet NAVD88. For waterfront properties with a habitable finished floor elevation of less than 3.9 feet NAVD88, a seawall may be constructed at less than the stated minimum elevation if a waiver is granted by the City Engineer. For properties within an X zone, the minimum seawall elevation shall meet 3.9 feet NAVD88 and the maximum seawall or dock elevation shall meet the definition of grade as determined by subsection 47-2.2 (g)(1)(a). The maximum height of related structures attached to a seawall shall not exceed the elevation of the seawall to which the structure is attached. In the event of a conflict between subsection 47-19.5.B.Table 1, Note G: subsection 1.a.ii. and the requirements of this section, this section shall govern. Property owners choosing to construct seawalls at less than 5.0 feet NAVD88 are strongly encouraged to have the foundation designed to accommodate a future seawall height extension up to a minimum elevation of 5.0 feet NAVD88.

Property's FEMA Flood Insurance Rate Map Location	Minimum Allowable Seawall Elevation	Maximum Allowable Seawall or Dock Elevation
In a floodplain with a base flood elevation greater than or	3.9 feet NAVD88	Base flood elevation of the property

equal to 5.0 feet NAVD88		
In a floodplain with a base flood elevation equal to 4.0 feet NAVD88	3.9 feet NAVD88	5 feet NAVD88
In an X zone, not in a floodplain	3.9 feet NAVD88	Meet the definition of grade as determined by Section 47-2.2(g)(1)(a)

- (1) Seawalls must be designed and built in a substantially impermeable manner to prevent tidal waters from flowing through the seawall while still allowing for the release of hydrostatic pressure from the upland direction.
- (2) Fixed docks may be constructed at an elevation less than the elevation of the seawall to which it is attached but shall not be constructed at an elevation more than ten (10) inches above the seawall's elevation. The dock elevation may not exceed the maximum elevation as described in subsection (f) of this section. Floating docks shall be allowed and must be permitted and permanently attached to a marginal dock, finger pier, mooring pilings, or seawall.
- (3) Seawall improvements constituting substantial repair at the time of permit application shall meet the minimum elevation and consider the design recommendations (see subsection (f) above) for the continuous seawall for the length of the property. For the purposes of this section, the substantial repair threshold shall mean the following:
  - (i) Any improvement to the seawall of more than fifty percent (50%) of the length of the structure, which for the purposes of this section, shall include both the seawall and cap; or
  - (ii) Any improvement to the seawall which results in an elevation change along more than fifty percent (50%) of the length of the structure.
- (4) All property owners must maintain their seawalls in good repair. A seawall is presumed to be in disrepair if it allows for upland erosion, transfer of material through the seawall or allows tidal waters to flow unimpeded through the seawall to adjacent properties or public right-of-way. Property owners failing to maintain their seawalls may be cited. The owner of the property on which the seawall is constructed is required to initiate a process, including but not limited to hiring a contractor or submitting a building permit, and be able to demonstrate progress toward repairing the cited defect within sixty (60) days of receiving notice from the city and complete the repair within three hundred sixty-five (365) days of citation. If the required repair meets the substantial repair threshold, the property owner shall design, permit, and construct the seawall to meet the minimum elevation requirement and design requirement (see subsection 47-19.3(f)) within three hundred sixty-five (365) days of citation.
- (5) Property owners with seawalls below the minimum elevation, or permeable erosion barriers such as rip rap, or a land/water interface of another nature shall not allow tidal waters entering their property to impact adjacent properties or public rights-of-way. Property owners failing to prevent tidal waters from flowing overland and leaving their property may be cited. The owner of the property is required to initiate a process, including but not limited to, hiring a contractor or submitting a building permit, and be able to demonstrate progress toward addressing the cited concern within sixty (60) days of receiving notice from the city and complete the proposed remedy within three hundred sixty-five (365) days of citation.

- (g) No boathouse, permanent covering, or temporary covering for a boat shall be permitted within the setback area required for the zoning district in which such shelter is to be located, nor shall any boathouse, permanent covering or temporary covering for a boat, or any other structure not otherwise specifically permitted, be permitted within or cover any public waterway.
- (h) No watercraft shall be docked or anchored adjacent to residential property in such a position that causes it to extend beyond the side setback lines required for principal buildings on such property, as extended into the waterway, or is of such length that when docked or anchored adjacent to such property, the watercraft extends beyond such side setback lines as extended into the waterway. The owner of real property which would be entitled to the density limitation of a maximum of forty (40) units per acre pursuant to the terms for habitation of floating homes or vessels, Section 47-19.6, may apply for an exception to the setback requirements contained herein. An application for such exception shall be heard by the Planning and Zoning Board (board) at a public hearing called for that purpose. After the public hearing, the board shall make a recommendation to the City Commission that the application be granted or denied, or granted subject to conditions. If the board recommends that the application be either granted or granted subject to conditions, the City Clerk shall place the recommendation on the agenda of the City Commission for a public hearing at a regular meeting. The City Commission shall, by resolution, either grant the application, deny the application, or grant the application subject to such conditions as it finds necessary to the health, safety and general welfare of the citizens of the city. In deciding whether to grant or deny the application, the City Commission shall consider the neighborhood within which the applicant's property lies and the effect that the exception to the setbacks would have on the following:
  - (1) The surrounding property.
  - (2) The ability of adjacent property owners to enjoy abutting waterways.
- (i) Waiver of limitations. Property owners of lands located on the Isle of Venice and Hendricks Isle may dock or anchor watercraft adjacent to their respective properties in a manner which extends beyond side setback lines, required by this section as approved by Resolution No. 85-270.

(Ord. No. C-97-19, § 1(47-19.3), 6-18-97; Ord. No. C-04-2, § 4, 1-12-04; [Ord. No. C-10-44, § 2, 12-7-10](#); [Ord. No. C-13-18, § 2, 6-4-13](#); Ord. No. [C-16-13](#), § 1, 6-21-16; [Ord. No. C-16-27](#), § 1, 12-6-16)