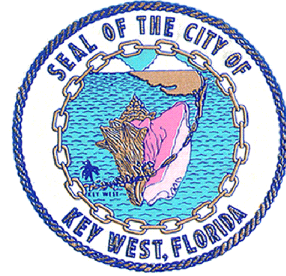


EXECUTIVE SUMMARY



TO: City Commission

CC: Jim Scholl, City Manager

FR: Kevin Bond, AICP, Senior Planner
Marilyn Wilbarger, RPA, CCIM

DT: April 9, 2015

RE: Submerged Land Lease for City Owned Submerged Lands in Sunrise Canal

ACTION: This is a request to approve a submerged land lease for the upland riparian property owner located at 3810 Flagler Avenue to utilize a portion of the submerged land area that is owned by the City of Key West in Sunrise Canal.

HISTORY: The Sunrise Canal is a T-shaped public canal that was dedicated to the City when the subdivision was created in December 1955 as shown on the attached plat map.

On April 24, 2014 the property owner applied for a building permit in order to construct a new dock. The permit application is on hold pending approval of the requested submerged land lease as the proposed improvements will encroach on the city owned submerged land.

The property owner is requesting a submerged land lease to provide a demised area for a private residential dock and a boat lift. The City has no established guidelines for riparian use of city owned submerged land in a canal and therefore the Army Corp of Engineers Riparian Rights Rules have been used as a benchmark to determine if the use would be compliant. These rules state that the area may not exceed 25% of the navigable waterway. The canal is approximately 75 feet wide therefore the riparian area cannot exceed 18.7 feet in width. The area that will be demised is approximately 13 feet in width and 105 feet in length. Therefore, the proposed demised area would not exceed the Army Corp's 25% rule and is not anticipated to create a navigational hazard or other adverse effects.

Existing encroachments into the Sunrise Canal include boat lifts, portions of docks, seawalls and moored vessels, as shown on the attached 2012 aerial photograph. A majority of the lots abutting the Sunrise Canal have docks and/or seawalls that provide for the mooring of vessels without the need for any structures to encroach into City property. There is an existing dock and seawall at the subject property that does not encroach on city property. Staff is unaware of any prior submerged land leases approved by the City for encroachments into Sunrise Canal.

At the time of the original permit application there was one objection received from an adjoining property owner who cited concerns over the elevation of the dock; width of the project creating an impediment to navigation, no precedent on Sunrise Canal and the boatlift and extended dock obstructing their view, all of which would be addressed through planning and permitting.

After the original permit application and subsequent neighbor concerns, Staff worked with the applicant to determine an appropriate design for the new dock that would provide the property owner with a similar amount of water access as other properties abutting the Sunrise Canal. There are other properties in the same canal that have docks running the entire length of the shoreline with boat lifts attached. A site visit revealed the existence of a shelf of shallow submerged land running along the shoreline. This shelf, which extends waterward beyond the existing seawall and dock, would prevent boats from being able to properly moor due to insufficient water depth. It was evident that in order to provide the property owner similar water access to other properties, the proposed dock would need to extend far enough to clear the submerged shelf to allow a boat to properly moor to the dock without striking the submerged land. The design of the proposed dock is consistent with this.

FINANCIAL: The lease rates charged will be consistent with the fees charged for City owned submerged land in Garrison Bight.

CONCLUSION: Granting a submerged land lease is not inconsistent with the Strategic Plan and meets the Army Corp of Engineers standards for riparian use. The City will collect annual lease fees and the property owner will supply insurance as required by the submerged land lease. Any proposed improvements within the demised area will be subject to the permit approval process through building and planning.

ATTACHMENTS:

Submerged land Lease

Plat Map

Aerial Photographs