

EXECUTIVE SUMMARY



To: Jim Scholl, City Manager

Through: Amy Kimball-Murley, AICP, Planning Director

From: Ashley Monnier, Planner II

Meeting Date: September 21, 2010

RE: Modification to Amended Settlement Agreement- 5555 College Road (RE# 00072080-001400)- A request for modification to the amended settlement agreement, approved by City Commission Resolution 1998-209, between Sunset Ventures, the City of Key West, and the Department of Community Affairs

ACTION STATEMENT:

Request: To consider a proposed second amended settlement agreement to allow modifications to the development program at Sunset Marina.

Location: 5555 College Road (Sunset Marina)
RE # 00072080-001400

Zoning: Commercial General (CG) Zoning District

BACKGROUND:

Sunset Marina is the subject of an amended settlement agreement between the City of Key West, the Florida Department of Community Affairs (DCA) and Sunset Ventures, as approved by City Commission Resolution Number 1998-209. The settlement agreement addresses permitted development (which includes a 60 unit multifamily development, 182 slip marina, and associated marine-related retail, office and storage space). The settlement agreement also includes a series of obligations and responsibilities, some of which are operational in nature. Although the term of the settlement agreement has expired, the limitations and obligations in the agreement remain intact.

The applicant has proposed a conditional use and major development plan application (separate, but related to this request) to add 184 dry storage boat slips to the existing marina on the site. As a result, a modification to the settlement agreement is necessary for the proposed project to receive full entitlements from the City. In addition, the applicant has exceeded the number of slips allowed on the site by 38 slips, and four affordable housing units have been developed which were not addressed in the existing agreement. Thus, a modification to the agreement is necessary to bring current operations into compliance. If approved by the City, the DCA must also execute the agreement. The applicant and City have coordinated with the DCA, and believe that they are conceptually in agreement with the amendments.

Previous City Actions:

| | |
|---------------------------------------|--------------------|
| Planning Board approval: | April 15, 2010 |
| Development Review Committee Meeting: | February 25, 2010 |
| | September 14, 2009 |
| | May 28, 2009 |
| Tree Commission Meeting: | February 8, 2010 |

Planning Staff Analysis:

Since the approval of the amended settlement agreement, all of the development on-site has been completed. If the proposed second amended settlement agreement is approved, no further development is allowed on the site with exception to the proposed dry slips. Planning staff drafted a compliance review opinion to determine the applicant’s overall fulfillment with the terms of the settlement agreement (see attached). To summarize the report, the Planning Department has found that the applicant has demonstrated compliance with the settlement agreement with the following exceptions:

- Slip numbers exceed the maximum allowed in the settlement agreement by 38 slips;
- Two landscaping issues were identified; and
- Development of four affordable housing units was not included in the schedule of allowed uses, and not appropriately deed-restricted for affordable housing.

The table below provides a breakdown of the number of slips allowed under the existing amended settlement agreement, the number of City-licensed slips, the number of slips currently operating, and the proposed number of slips associated with the major development plan and conditional use request.

| Maximum Allowed Under Amended Settlement Agreement | City-Licensed Number of Slips | Number of Slips Operating at Marina | Proposed Number of Slips for City Commission Consideration |
|---|--------------------------------------|--|---|
| 182 slips | 232 slips | 220 slips | 349 |
| Wet: Any combination | Wet: 118 slips | Wet: 165 slips | Wet: 165 slips |
| Dry: Any combination | Dry: 114 slips | Dry: 55 slips | Dry: 184 dry slips |

In response to the noncompliant areas of the amended settlement agreement, the applicant has worked to correct the problems and address solutions in the proposed major development plan and conditional use application, as well as by bringing current operations into compliance by incorporating them into the proposed second amended settlement agreement. As such, the applicant has prepared landscaping plans (as part of the major development plan and conditional use application) which have been approved by the City, and which will achieve compliance with the two outstanding landscaping conditions. To address the affordable housing issues, the applicant deed-restricted the units and agreed to pursue a modification of the amended settlement agreement to include

a revised program of development. The additional marina slips must be approved by environmental regulatory agencies as well as by the City. As proposed, the second amended settlement agreement, and updated major development plan and conditional use application will address the identified issues and bring the project into full compliance, while also allowing expansion of dry slips beyond that already existing.

The proposed dry storage racks are part of a phased development, per Section 108-203 of the Land Development Regulations. The major development plan and conditional use approval timeframe toll with the proposed second amended settlement agreement. The applicant is proposing a five year timeframe for development completion.

Options/Advantages/Disadvantages:

Option 1: Approve the proposed second amended settlement agreement.

1. Consistency with the City's Strategic Plan, Vision, and Mission:

The City's Strategic Plan, Vision, and Mission do not address issues pertinent to this request.

2. Financial Impact:

The Planning Department does not anticipate any direct financial impacts to be incurred by the City as a result of this request.

Option 2: Deny the proposed second amended settlement agreement.

1. Consistency with the City's Strategic Plan, Vision, and Mission:

The City's Strategic Plan, Vision, and Mission do not address issues pertinent to this request.

2. Financial Impact:

The Planning Department does not anticipate any direct financial impacts to be incurred by the City as a result of this request.

Recommendation

The Planning Department recommends **approval of Option 1.**

Attachments

Attachment 1: Proposed Second Amended Settlement Agreement

Attachment 2: Amended Settlement Agreement

Attachment 3: Compliance Review