

RESOLUTION NO. 19-146

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, PURSUANT TO SECTION 8-144 OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, GRANTING A DOCK PERMIT FOR USE, MAINTENANCE AND REPAIR BY STEPHEN AND KIM ANN SHULMAN OF AN APPROXIMATE 20' LONG X 5' WIDE EXISTING FIXED MARGINAL DOCK CONSTRUCTED ON PUBLIC PROPERTY ABUTTING THE WATERWAY ADJACENT TO 116 SE 11TH AVENUE AT THE INTERSECTION OF SE 11TH AVENUE AND SE 2ND STREET AND ABUTTING HIMMERSCHEE CANAL, AS SUCH PROPERTY IS MORE PARTICULARLY LEGALLY DESCRIBED BELOW; SUBJECT TO CERTAIN TERMS AND CONDITIONS; REPEALING ANY AND ALL PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, STEPHEN AND KIM ANN SHULMAN, husband and wife, applied for a permit to use, maintain and repair an approximate 20' long x 5' wide fixed marginal dock public property abutting Himmarshee Canal in accordance with the provisions of Section 8-144 of the Code of Ordinances of the City of Fort Lauderdale; and

WHEREAS, the City's Marine Advisory Board on April 4, 2019, reviewed the application for dock permit filed by Applicant and voted unanimously to recommend to the City Commission approval of this application;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That pursuant to Section 8-144 of the Code of Ordinances of the City of Fort Lauderdale, permission is hereby granted to **STEPHEN and KIM ANN SHULMAN** (hereinafter referred to as "Permit Holders") to use, maintain and repair the approximate 20' long x 5' wide existing fixed marginal dock abutting the Himmarshee Canal on public property adjacent to 116 SE 11th Avenue such dock being located at the waterward intersection of SE 11th Avenue and SE 2nd Street and legally described as follows:

The North 5 feet of Lot 19 and the South 30 feet of Lot 20, Block 18, BEVERLY HEIGHTS, according to the Plat thereof, recorded in Plat Book 1, Page 30, of the Public Records of Broward County, Florida.

(Street Address: 116 SE 11th Avenue
Fort Lauderdale, FL)

(Property ID#: 5042 11 07 0831)
(Hereinafter "Property")

SECTION 2. The Dock Permit herein granted by this Resolution may be revoked at any time for violation of any one or more of the conditions of this Resolution or provisions of Section 8-144 of the Code of Ordinances of the City of Fort Lauderdale, a number of such provisions are incorporated by reference as if fully set forth herein. The following conditions are listed for emphasis: (1) Permit Holder is prohibited from collecting rent for the dock facility; (2) the Dock Area, as defined below, shall not be used by any person or persons other than Permit Holder; (3) Permit Holder shall be responsible for maintaining the Improvements (the term "Improvements," as used herein shall mean the dock and seawall and any other appurtenant fixtures constructed or utilized by Permit Holder); (4) by acceptance of the use of the Improvements and the Permit granted hereby, Permit Holder agrees to defend, indemnify and hold City harmless for damages to property or injury to or for the death of anyone using the Improvements; (5) Permit Holder shall be responsible for all governmental charges or fees in connection with the maintenance, repair and use of the Improvements; (6) Permit Holder is prohibited from erecting any signs, landscaping or fencing that would restrict public access to the Public Swale Area as defined below.

SECTION 3. The granting of this Dock Permit is subject to the following terms and conditions:

1. The fixed period of the Dock Permit issued for use of the Improvements described in the application is for a period of five (5) years in accordance with City Code Section 8-144 (1). The fixed period of time is conditioned upon the requirement that the Permit Holder shall repair, replace or maintain the adjacent seawall during the term. Permission may be revoked by the City upon at least ninety (90) days advance notice to the Permit Holder.
2. As a special condition, the City reserves the right to remove the Improvements for replacement of the seawall in the event that this might be required during the term of the Dock Permit as determined by the City Engineer. The sole cost of removal and replacement of the Improvements shall be the responsibility of the Permit Holder. Furthermore, the Permit Holder shall be responsible for maintaining and

beautifying a reasonable area in and around the Dock Area and Public Swale Area (more particularly described below) and failure to do so shall be grounds for revocation of this Dock Permit.

3. (a) The *Dock Area* is the marginal dock identified as the "Dock Area" on the attached "Construction As-Built Survey" set forth as Exhibit "A" measuring 20.60 feet by 5.40 feet and bounded on (i) the Northeast by upland edge of the seawall cap, (ii) the Northwest and Southeast by the respective edges of the marginal dock and (iii) the Southwest by the limitations set forth in ULDR Sec. 47-19.3 (c) & (d) and, as to the mooring of a vessel, such vessel may be moored no farther out than as proscribed by City Code Sec. 8-91 (e) . The Dock Area is more particularly set forth in Exhibit "A".

(b) The *Public Swale Area* is the swale area to the Southeast of SE 2nd Street at the intersection of SE 11th Avenue and bounded on (i) the Northeast by the edge of pavement for SE 2nd Street; (ii) the Northwest by a line perpendicular to the waterway and ten feet Northwest of the edge of the Dock Area, (iii) the Southeast by a line perpendicular to the waterway and five feet Southeast of the edge of the Dock Area, (iv) the Southeast of the waterward edge of the seawall cap, excluding therefrom the Dock Area and appurtenances thereto.
4. As a special condition of the Permit, the Permit Holder is prohibited from erecting any signs, landscaping or fencing to restrict public access to the Public Swale Area except where permitted by Code. The "Dock Area" shall include the marginal dock and adjoining seawall. Permit Holder shall post signage on the Dock Area indicating that the Dock Area is private. The Resolution Number under which this Dock Permit is granted shall be posted on the signage.
5. As a special conditions of the dock permit a vessel berthed at the dock may not exceed twenty-one (21) feet in length overall.
6. All improvements to the Public Swale Area and Dock Area must be in accordance with City Engineering design standards and in compliance with applicable building and zoning permit requirements.
7. The Dock Permit granted herein shall not be assignable without the written approval by Resolution adopted by the City Commission.
8. Permit Holder shall not charge or collect any rent or fees from anyone using such dock constructed on public property. No signage shall be placed upon such dock indicating it is a private dock.

9. As a special condition, vessels berthed at the permitted dock, pursuant to Code Sec. 8-91 (e) are prohibited from extending beyond the maximum distance of 30% of the width of the waterway.
10. Repair and/or maintenance of a vessel moored at this location shall be in compliance with City Code Sec. 8-149.
11. As a special condition of the permit, in the event Permit Holder is found by the City Commission to have violated any of the above conditions or is found by the Code Enforcement Board, Special Magistrate or County Court Judge to have violated any Code sections relative to the use of the Dock Area, Dock and Mooring Piles, then the Permit granted herein may be repealed or rescinded by the City Commission upon thirty days' advance notice to the Permit Holder.
12. Use of the Dock Area is limited to the docking of a vessel owned by the Permit Holder with a copy of the documentation showing the name and registration number of the vessel provided by the Permit Holder to the Supervisor of Marine Facilities.
13. The Permit Holder is prohibited from mooring any watercraft or vessel, other than a tender, in such a manner that it is "rafted out" from the vessel owned or operated by the Permit Holder and moored at the dock authorized under the dock permit.

SECTION 4. Permit Holder shall repair, replace or maintain the Improvements during the term of the Permit. The term of this Permit shall be five (5) years from the date of adoption of this Resolution, provided, however that this Permit may be revoked upon ninety (90) days advance notice for failure to repair, replace or maintain the Improvements. At the end of the five (5) year term, the Permit shall be revocable at the will of the City Commission.

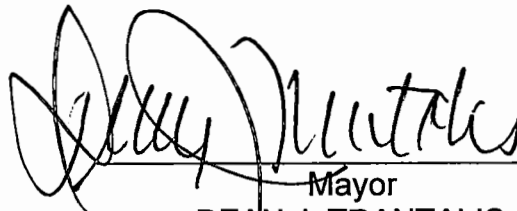
SECTION 5. That by acceptance of the benefits of this Resolution, Permit Holder acknowledges that the Public Property Area and Dock Area are part of a publicly dedicated right-of-way for SE 11th and that any right, title, interest or claim of use to the Dock Area, except to the extent provided herein, is subordinate and inferior to that public dedication until such public dedication is discontinued by law.

SECTION 6. That the City Clerk is hereby directed to record a copy of this Resolution in the Public Records of Broward County, Florida at the Permit Holder's expense and after recording to file same in the City's records.

SECTION 7. That all Resolutions or parts of Resolutions in conflict are hereby repealed.

SECTION 8. That this Resolution shall be in full force and effect upon final passage.

ADOPTED this the 20th day of August, 2019.



Mayor
DEAN J. TRANTALIS

ATTEST:



City Clerk
JEFFREY A. MODARELLI

