

## EXECUTIVE SUMMARY



**To:** Jim Scholl, Interim City Manager  
**Through:** Donald Leland Craig, AICP, Planning Director  
**From:** Carlene Smith, LEED Green Associate, Planner II  
**Meeting Date:** October 21, 2014

**RE:** **Easement - 711 Duval Street (RE# 00015760-000000; AK# 1016136) -**  
A request for an easement of approximately  $\pm 82$  square feet above the Duval Street right-of-way in order to maintain an existing marquee on property located within the Historic Residential Commercial Core (HRCC-1) zoning district pursuant to Section 2-938 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

### ACTION STATEMENT:

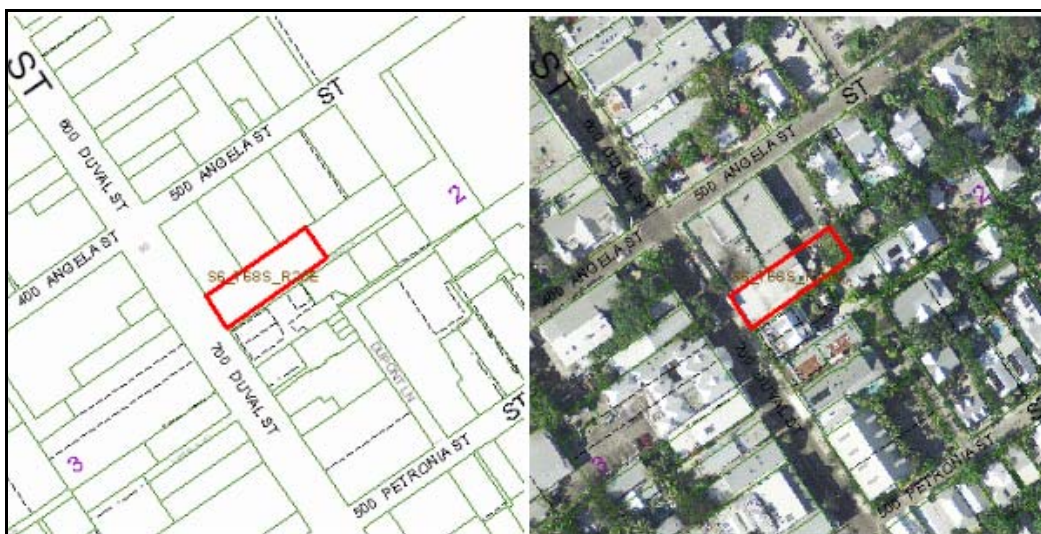
Request: To approve an easement request of approximately  $\pm 82$  square feet above City right-of-way (ROW) abutting the property.

Applicant: Michael B. Ingram

Property Owner: Rosa Lee Perez Trust

Location: 711 Duval Street (RE# 00015760-000000; AK# 1016136)

Zoning: Historic Residential Commercial Core (HRCC-1)



**BACKGROUND:**

This is a request for an easement pursuant to Section 2-938 of the Code of Ordinances of the City of Key West. The easement request is for 82 square feet to maintain an existing marquee on the Duval Street right-of-way as shown on the attached specific purpose survey dated February 8, 2014. Building permit records indicate the marquee has been in place since 1997.

In February 2014, the property owner's representative was notified by the Building Official that the existing marquee encroached over the City right-of-way. Since that time the applicant has been coordinating with Planning and Legal Department staff on obtaining all of the correct authorization forms.

**City Actions:**

Development Review Committee:

March 14, 2014

**PLANNING STAFF ANALYSIS:**

As described in the Specific Purpose Survey drawn by Reece & White, dated February 8, 2014, the area of the easement request is for 82 square feet more or less.

There are leases and subleases with the subject property. Although the Rosa Lee Perez Trust owns the property, Mirador del Mar has the land lease for the next 38 years. The applicant has received authorization from both FEG Co-Tenants and Mirador Del Mar, LLC for this easement request. If the easement request is approved, the agreement will need to be signed by the managing partner of FEG Co-Tenants and the manager of Mirador del Mar. The agreement would only be in place until September 30, 2052 which is the time remaining on the 99 year lease.

**Options / Advantages / Disadvantages:**

**Option 1.** Approve the easement request for approximately  $\pm 82$  square feet in order to maintain an existing marquee on the Duval Street right-of-way, with the following conditions:

1. The easement shall be signed by Karen Daniels, Managing Partner of FEG Co-Tenants, and Sam G. Dickson, Manager of Mirador Del Mar, LLC.
2. The easement agreement will be effective until September 30, 2052.
3. The easement shall terminate upon the replacement of the structure.
4. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
5. The Managing Partner of FEG Co-Tenants, and Manager of Mirador Del Mar, LLC shall pay the annual fee of \$300.00 specified in Code Section 2-938(b).
6. The Managing Partner of FEG Co-Tenants, and Manager of Mirador Del Mar, LLC shall irrevocably appoint the City Manager as its agent to permit the removal of the encroachment if the annual fee required by the Code of Ordinances is not paid.
7. The easement shall terminate upon the failure of the Managing Partner of FEG Co-Tenants, and Manager of Mirador Del Mar, LLC to maintain liability insurance in a minimum amount of \$200,000.00 per person and \$300,000.00 per incident, or such other amount as may legislatively be determined to be the maximum extent of sovereign immunity waiver, naming the City as an

additional insured for that portion of real property which is the subject of this easement.

8. The existing marquee shall be the only total allowed construction within the easement area.
9. The easement area shall not be used in site size calculations such as lot, yard, and bulk calculations for site development.
10. The City reserves the right to construct surface improvements within the easement area.
11. The applicant will obtain structural report on the existing marquee.

**Consistency with the City's Strategic Plan, Vision and Mission:** Granting the requested easement would not be inconsistent with the Strategic Plan.

**Financial Impact:** The City would collect \$300.00 annually as part of the approval of the easement. There would be no cost to the City for granting the easement.

**Option 2.** Deny the easement request for approximately ±82 square feet for the existing marquee on the Duval Street right-of-way, with the following conditions:

1. The applicant will obtain the appropriate permits for the removal of the marquee.
2. The encroachment on the City right-of-way will be removed within 90 days.

**Consistency with the City's Strategic Plan, Vision and Mission:** Denial of the requested easement would not be inconsistent with the Strategic Plan.

**Financial Impact:** The City would lose the potential to collect the revenue of the easement agreement.

#### **RECOMMENDATION: Option 1.**

Based on the existing conditions, the Planning Department recommends to the City Commission **APPROVAL** of the easement request for approximately ±82 square feet in order to maintain an existing marquee on the Duval Street right-of-way, with the conditions listed above.