

## EXECUTIVE SUMMARY



**To:** James K. Scholl, City Manager  
**Through:** Patrick Wright, Planning Director  
**From:** Melissa Paul-Leto, Planner I  
**Meeting Date:** February 20, 2019

**RE:** **Easement – 908 Packer Street (RE # 00021550-000000)** – A request in order to maintain the existing brick pavers, a four foot picket fence with gates, the second floor eaves on the side of the principle structure, a six foot fence with gates, and landscaping including one Green Buttonwood tree that encroaches onto the Packers Street and Johnson Lane Right-of-Ways approximately 304 square feet, more or less located within the Historic High Density Residential (HHDR) Zoning District pursuant to Section 2-938(b) (3) of the Code of Ordinances of the City of Key West, Florida.

### ACTION STATEMENT:

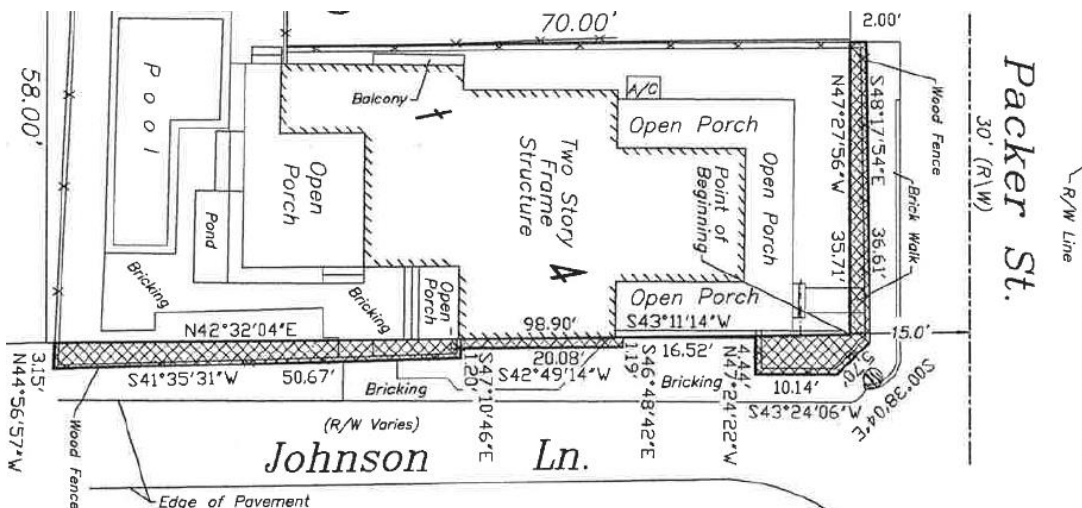
Request: To grant an easement of approximately 304 square feet more or less within City rights-of-way abutting the property.

Applicant: Richard McChesney – Spottswood, Spottswood, Spottswood & Sterling

Property Owner: Elizabeth Fuller

Location: 908 Packer Street (RE # 00021550-000000)

Zoning: Historic High Density Residential (HHDR) Zoning District



**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 subject property faces 908 Packer Street with Johnson Lane as the street side. The following accessory items are encroaching onto the Packer Street and Johnson Lane right-of-way, as shown on the attached specific purpose survey: the existing brick pavers, the four-foot picket fence with gates, the second-floor eaves on the side of the principle structure, the six-foot fence with gates, and landscaping including one Green Buttonwood tree.

**City Actions:**

Development Review Committee:

June 22, 2018

City Commission:

February 20, 2019

**PLANNING STAFF ANALYSIS:**

As described in the Specific Purpose Survey drawn by J. Lynn O’Flynn, PSM of J. Lynn O’Flynn, Inc., dated October 20, 2018, the area of the easement request is for a total of 304 square feet.

If the request for an easement over City-owned land is granted, then the owner would be required to pay an annual fee of \$400.00 to the City for the use of the 304 square feet, more or less, of city property pursuant to Code Section 2-938(b)(3). The annual fee would be prorated based on the effective date of the easement.

**Options / Advantages / Disadvantages**

**Option 1.** Approve the easement with the following conditions:

1. The easement shall terminate upon the removal of the existing brick pavers, the four-foot picket fence with gates, the six-foot fence with gates, and the second-floor eaves on the side of the principle structure.
2. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
3. The owner shall pay the annual fee of \$400.00 specified in Code Section 2-938(b) (3).
4. The owner 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.
5. The easement shall terminate upon the failure of the property owner 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.
6. The existing brick pavers, the four-foot picket fence with gates, the second-floor eaves on the side of the principle structure, the six-foot fence with gates, and landscaping including one Green Buttonwood tree shall be the total allowed construction within the easement area.
7. The easement area shall not be used in site size calculations such as lot, yard, and bulk calculations for site development.
8. The City reserves the right to construct surface improvements within the easement area.

**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 \$400.00 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 based on findings that the City's needs outweigh the request.

1. The owner will obtain the appropriate permits for the removal of all items that encroach onto the City right-of-way

2. All encroachments 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:** There would be no cost to the City for denying the easement, however the City would lose the potential to collect the annual revenue of the easement agreement

**RECOMMENDATION: Option 1.**

Based on the existing conditions, the Planning Department recommends to the City Commission **APPROVAL** of the proposed Resolution granting the requested easement with conditions as outlined above.