

## EXECUTIVE SUMMARY



**To:** Greg Veliz, City Manager  
**Through:** Roy Bishop, Planning Director  
**From:** Melissa Paul-Leto, Planner I  
**Meeting Date:** January 22, 2020

**RE:** **Easement – 920 Cornish Lane (RE # 00007670-000000)** – A request in order to maintain the existing brick pavers, a four foot picket fence with a gate, and landscaping onto the Cornish Lane Right-of-Way approximately 177 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:

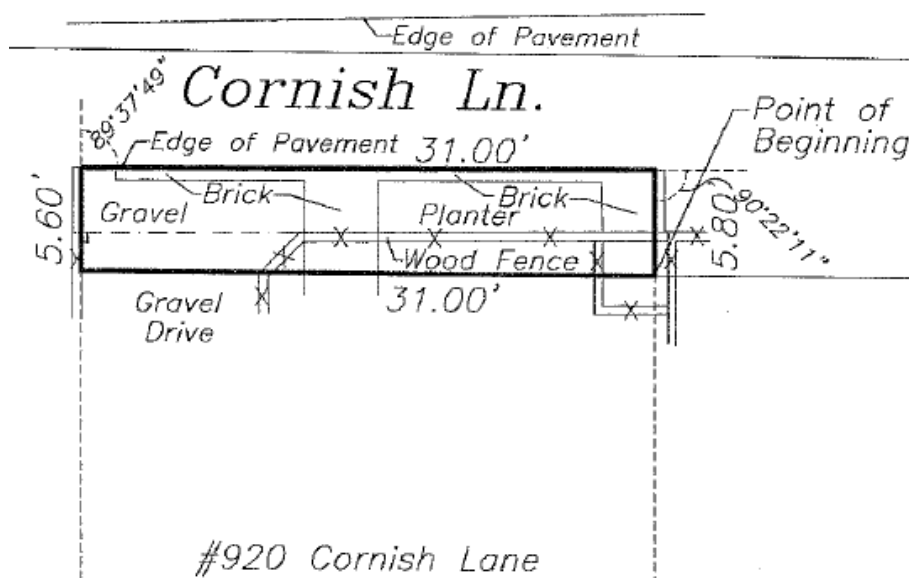
Request: To grant an easement of approximately 177 square feet within City rights-of-way abutting the property.

Applicant: Wayne LaRue Smith, MBA, JD

Property Owner: John P. Huss & David R. Genest

Location: 920 Cornish Lane (RE # 00007670-000000)

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 Cornish Lane. The property owner received a code violation case No. 18-1924 for doing work on the subject property without a building permit.

A Right-of-Way permit was submitted to replace twenty (20) square feet of landscaping with 3/8" granite stones. An After-the-Fact Building permit was submitted to the Building department No. 2018-1469. Based on the After-the-Fact building permit No. 2018-1469 the property owner did the following exterior renovations to the front yard property: removed a 4.5 foot wide, 4 foot high gate; removed a 2.5 foot wide, 4 foot high section of fence; repositioned a 3 foot wide, 4 foot high section of the front yard fence; removed landscaping in order to reconfigure the existing 3/8" granite stone. The granite stone area was dedicated for one bicycle parking space. The removal of the portion of fence, gate, landscaping and the reconfiguration of the granite stones have resulted in an area that accommodates one bicycle space and a compact car. The After-the-Fact building permit request revealed that the subject property had never received an easement for the past or current encroachments. The following accessory items are encroaching into the Cornish Lane right-of-way: existing brick pavers, a four-foot picket fence with a gate, and landscaping. On July 24, 2019, the HARC Commission approved the after-the-fact partial removal of the front fence and gate, reposition of the fence, and to reconfigure existing 3/8" granite stones bicycle space. The subject property received a Certificate of Occupancy on July 31, 2019.

**City Actions:**

Development Review Committee:

April 23, 2019

City Commission:

January 22, 2020

**PLANNING STAFF ANALYSIS:**

As described in the Specific Purpose Survey drawn by J. Lynn O'Flynn, PSM of J. Lynn O'Flynn, Inc., dated June 7, 2019, the area of the easement request is for a total of 177 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 177 square feet 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 a gate, and landscaping.
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 a gate, and landscaping 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.
9. Vehicular parking may not exceed the fence line boundaries.

**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.

**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.