



**THE CITY OF KEY WEST
Tree Commission**

Post Office Box 1409 Key West, FL 33041-1409
Telephone: 305-809-3725

**NOTICE OF ADMINISTRATIVE HEARING
BEFORE THE TREE COMMISSION OF THE CITY OF KEY WEST**

September 18, 2018

Tree Commission
City of Key West
Petitioner,

Vs.

Michael Werner
3637 Eagle Avenue
Key West, FL 33040

Mike Werner
10441 Chief Kuno Trail
Fox Lake, WI 53933

An administrative hearing before the Tree Commission for the City of Key West will be held on **Tuesday, October 9, 2018**, at 5:00 p.m., at **Josephine Parker City Hall at Historic Glynn R. Archer School, 1300 White Street, Key West, Florida.**

This hearing will be conducted pursuant to sections 110-288 et. seq. of the Key West City Code. The purpose of this hearing will be to determine if a code violation has been committed by the above named Respondents. **Your presence is required at this Tree Commission meeting.**

Date of alleged violation: prior to May 1, 2018 at 3637 Eagle Avenue, Key West, FL:

Sec. 110-321. Required.

- (a) Unless a tree removal permit approved by the tree commission and issued by the Urban Forestry Manager has been obtained, no person, whether on publicly or privately owned land, shall cause tree abuse or other harm, or major maintenance to, hatracking, transplanting, topping or removal of the following:
- (1) Any tree listed as "specially protected" in section 110-253

Factual allegation: One (1) protected Sea Grape tree located on the City right-of-way in front of the property has been removed from the property without benefit of a tree removal permit.



Key to the Caribbean – average yearly temperature 77 ° Fahrenheit.



If the Tree Commission for the City of Key West finds that there has been a violation of the above code section, it will elect to enter into a compliance settlement agreement pursuant to section 110-291 of the Key West City Code or recommend a fine and further hearing before the Special Master of the City of Key West pursuant to section 110-294 of the Key West City Code.

Attendees are hereby notified that a complete and accurate record of the proceeding is required under Florida Statute 286.0105 if an appeal is sought. Appellants are responsible for providing transcription services.

I hereby certify that the forgoing notice has been mailed to the Respondents and has been sent regular mail, e-mail, and certified U.S. Mail to the above named Respondent's listed address on this **19th day of September 2018**.

If you have any questions, please call the office at (305) 809-3768.

Karen DeMaria
Urban Forestry Manager
kdemaria@cityofkeywest-fl.gov

Karen DeMaria

From: Mike Werner <mike.werner@wernerharmesen.com>
Sent: Thursday, September 20, 2018 12:57 PM
To: Karen DeMaria
Subject: Re: 3637 Eagle Unauthorized Tree Removal

Good Afternoon Karen,

I have received your Notice of Administrative Hearing, and will attend promptly on October 9, 2018.

Thanks
Mike Werner
In Key West

On Tue, Sep 18, 2018 at 4:13 PM, Karen DeMaria <kdemaria@cityofkeywest-fl.gov> wrote:

Mike:

Attached is a copy of the Administrative Hearing notice that is being mailed to you regarding your attendance at the October 9, 2018 Tree Commission meeting.

Sincerely,

Karen

Karen DeMaria

Urban Forestry Manager

Certified Arborist

City of Key West

305-809-3768

Karen DeMaria

From: Karen DeMaria
Sent: Friday, July 13, 2018 3:22 PM
To: 'Mike Werner'
Subject: RE: 3637 Eagle Ave.

Mike:

Thank you for getting the paperwork and files to Engineering and Code so they could review them. I am aware that management has made a determination based on the application that a permit is not needed for the placement of the sod and bromeliads. However, I still need to deal with the removal of the protected seagrape tree that used to be next to the mahogany tree on the corner. A permit was required from my office for the removal of that tree. The only remedy is an Administrative Hearing in front of the Tree Commission. If you decide to enter into a Settlement Agreement with them, they will probably require that you replant trees in the area. When will you be back in town? You will have to attend the hearing in order to get closure.

Sincerely,

Karen

From: Mike Werner [mailto:mike.werner@wernerharmesen.com]
Sent: Thursday, July 12, 2018 10:20 AM
To: Karen DeMaria <kdemaria@cityofkeywest-fl.gov>
Subject: 3637 Eagle Ave.

Good Morning Karen,

I am writing in response to the e mail I received on July 6, 2018 from Jim Young informing me to contact your office, in regard to concerns you have with removal of pants/tree after landscaping at my home.

Please advise or send any forms necessary to resolve this matter. As a proud owner of a home in Key West, I am anxious to resolve my lack of understand I may have had in regard to the landscaping.

I look forward to your continued help and understand.

**Mike Werner
In Wisconsin**

Karen DeMaria

From: Jim J. Young
Sent: Friday, July 06, 2018 12:00 PM
To: Jennifer Ramos
Cc: Andrea S. Gomez; mike.werner@wernerharmesen.com; Karen DeMaria
Subject: RE: 3637 Eagle Ave right of way planting and maintenance

To All,

After discussing this issue with Assistant City Manager Veliz and Planning Director Wright it was determined that no ROW permits are necessary.

Mr. Werner, you will still need to work with Urban Forestry Manager DeMaria on the removal of the landscaping.

Jim Young

From: Jennifer Ramos
Sent: Friday, July 06, 2018 10:41 AM
To: Jim J. Young <jjyoung@cityofkeywest-fl.gov>
Subject: FW: 3637 Eagle Ave right of way planting and maintenance

From: Mike Werner [<mailto:mike.werner@wernerharmesen.com>]
Sent: Thursday, July 05, 2018 12:19 PM
To: Andrea S. Gomez <agomez@cityofkeywest-fl.gov>
Cc: Eric Augst <eaugst@cityofkeywest-fl.gov>; Jennifer Ramos <jramos@cityofkeywest-fl.gov>; Karen DeMaria <kdemaria@cityofkeywest-fl.gov>
Subject: Re: 3637 Eagle Ave right of way planting and maintenance

Good Morning to all,

I am acknowledging your e-mail of 6/27/18, requesting additional information for completion of the Temporary & Permanent ROW report I submitted on 6/18/18. I understand your confusion with the lack of information, although will admit I have no idea what I'm applying for (?).

After a recent phone call from Jim Young from Code Compliance we both agreed that clarification on what I need to do is needed. Jim indicated he would talk to other office personal and report back to me. As a reminder my home is in an area with no sidewalks, or curbs, and the landscaping done was within the original landscaping boundaries.

I am looking forward to returning to Key West on 7/21/18 and would be happy to meet with anyone for further direction.

Thanks Again for your understanding,

Mike Werner

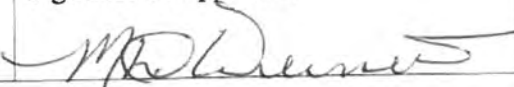
**City of Key West
Permanent ROW Permit Application**

DATE OF APPLICATION:
(AT LEAST 3 BUSINESS DAYS PRIOR TO WORK BEING PERFORMED)
REQUESTED START DATE:

**PERMIT NO.
RENEWAL:**
Inter-office use only

- Agreement for: Sidewalk
 Landscaping
 Shoulder Restoration
 Other

Section I – Application

STREET ADDRESS OF PROPOSED CONSTRUCTION: <i>36-37 Eagle Ave</i>	
PROPERTY OWNER: CITY OF KEY WEST <i>Michael D. Werner</i>	PHONE: 305-809-3572 EMAIL: engineering@cityofkeywest-fl.gov
PROPERTY OWNER: 1300 WHITE STREET, KEY WEST, FL 33040	
CONTRACTOR BUSINESS NAME: <i>Family + Friends</i>	PHONE: EMAIL:
CONTRACTOR ADDRESS:	
REQUESTED DATES OF WORK: START: END:	TIME: TIME:
Description of proposed construction or landscaping:	Estimated Cost of Work: Approx. Sq. Footage: <i>?</i> Name of Applicant: <i>Michael D. Werner</i> Signature of Applicant: 

Section II – Permit

Plans for Right of Way Approved Denied N/A Road Closure Approval required: Yes No
 Plans for Traffic Maintenance Approved Denied N/A Engineer signature:

HARC approval required Yes No

Reviewed by: _____, Engineering Department
 Staff Comments/Specific Instructions:

Permit approved by: _____ Date: _____
 City Manager Approval & Notary: _____ Date: _____

City of Key West
Permanent ROW Permit Application

Section III – Agreement

1. Any and all excavation work must follow BMP practices as defined by the EPA concerning all storm water retention (silt screens, hay bales, etc.).
2. Unless specifically approved otherwise, all pavements must be repaired within 48 hours of completion of work.
3. ADA Codes must not be violated during the work closure.
4. ADA specifications shall be ADAAG.

I, (Sign & Print) Michael D. Weaver hereby agree to obey all of the City of Key West requirements for proper repairs

and/or traffic maintenance involved with the above described work, including above storm water retention guidelines as defined by the EPA. I have legal authority to bind the ~~entity~~ to the terms and conditions of this permit. Maintenance of traffic shall be governed by requirements prescribed by the Florida Department of Transportation regulations. Protection of property, either public or private, shall be governed by City Code (including Chapter 62), the requirements of the Standard Building Code, and any specific conditions noted above. I also agree that forty eight (48) hours prior notification shall be given to all occupants and owners of properties that are in the same block as to when and where the work will be performed.

A deposit in the form of certified funds payable to the City of Key West may be required. The amount required will be sufficient to cover expert repairs or to reimburse the City for improper materials or workmanship should I not comply with the terms of this agreement. The funds will be returned if the inspection of the completed work is satisfactory to Engineering Services.

I further agree to indemnify the City of Key West, its employees, agents and invitees from any injuries to person and/or damage to property as a result of the above described work. This indemnification shall survive the completion of the work described above.

I as contractor of record for this project agree that I will comply with the provisions of Florida Statue 469.003 and to notify the Department of Environmental Protection of my intent to demolish/renovate a structure and remove asbestos, when applicable, in accordance with state and federal law.

I hereby that I have read and examined this application and know that same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with, whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any local, state, or federal laws regulating construction or the performance of construction.

"Notice: In addition to the requirements of this permit, there may be DEED RESTRICTIONS and/or additional restrictions applicable to this property that may be found in the public records of this county and there may be additional permits required from other government entities such as water management districts, state agencies, or federal agencies."

Chapter 837.06 F.S. False Official Statements: Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree punishable as provided for in s. 775.082 or s. 775.083.

SECTION IV – BONDS *inter-office use only

Bond Deposit: \$ _____ Date: _____ Received from: _____ Receipt#: _____
Cash Certified Check Money Order Insurance Bond
Inspected for compliance by: _____ Date: _____
Bond returned Date: _____ Amount: \$ _____
Person receiving bond refund: Printed _____ Signature _____

SECTION V – FEES

Final ROW Inspection Fee.....70.00

Date:

Received by:

Engineering Services • 1300 White St • Key West, FL 33040 • 305-809-3572

Good Morning Karen, Andrea

Please accept my apology for the late response in regard to the ROW applications.

As an update, I have been at my home in Wisconsin since late May, and have not planned on returning to Key West until late August 2018, and for the past week have been on a vacation with my grandchildren. I can assure you that I have every intention of resolving any misunderstand on my part after I and my family and friends with help from Home Depot equipment rental did our best to revamp the front yard of our new home at 3637 Eagle Ave. The work done (in my opinion) was to renovate the front yard by removing the old circular driveway and overgrown plants, replace some of the sod, and plant new up-to date vegetation that I purchased in the Homestead area and was very well received by many neighbors and often stopped cars with enthusiastic congratulations. My love for Key West (been a legal resident for years) is about as genuine as it comes, and my desire to have a new home with a great lawn has always been my objective and If I did something wrong, I want to rectify it as soon as possible.

I have received the Temporary and Permanent Application and will fill them out as an after the fact, to the best of my ability. After mailing them to you, if necessary please contact me, so that we can resolve this matter.

Thanks for your help and concern,

**Mike Werner
In Wisconsin**

COPY

Mike Werner

10441 Chief Kuno Trail
Fox Lake, WI 53933
920-382-1883 (cell)

Office:

Werner/Harmse
112 E. Main Street
Waukegan, WI 53933
920-324-5091



mike.werner@wernerharmse.com

**City of Key West
Temporary ROW Application & Permit**

DATE OF APPLICATION:
(AT LEAST 3 BUSINESS DAYS PRIOR TO WORK BEING PERFORMED)
REQUESTED START DATE:

PERMIT NO.
RENEWAL:
Inter-office use only

- Agreement for: Use of Right of Way
 Maintenance of Traffic
 Sidewalk Closure
 Street Closure

Section I – Application

LOCATION OF WORK: <i>3637 Eagle Ave.</i>	
PROPERTY OWNER: <i>Michael D. Werner</i>	PHONE: <i>920-382-1883 (cell)</i>
PROPERTY OWNER ADDRESS IF DIFFERENT THAN WORK LOCATION:	
CONTRACTOR BUSINESS NAME: <i>Family + Friends.</i>	PHONE: EMAIL:
CONTRACTOR ADDRESS:	
REQUESTED DATES OF WORK: START: <i>3/18</i> END: <i>5/18</i>	TIME: TIME:
Description of use/work/maintenance or closure:	Signage/Flaggers required? <input type="checkbox"/> Plans attached? Yes <input type="checkbox"/> No <input type="checkbox"/> Name of Applicant: Signature of Applicant: <i>[Signature]</i>

Section II – Permit

For General Engineering Services Only

Plans for Right of Way Approved Denied N/A Road Closure Approval required: Yes No
 Plans for Traffic Maintenance Approved Denied N/A Engineer signature:

HARC approval required Yes No Bond Deposit Required: Yes No

Reviewed by: _____, Code Compliance Department
 Staff Comments/Specific Instructions:

Permit approved by: _____ Date: _____

City Manager Approval (complete road blockage): _____ Date: _____

City of Key West Temporary ROW Application & Permit

Section III – Agreement

1. Any and all excavation work must follow BMP practices as defined by the EPA concerning all storm water retention (silt screens, hay bales, etc.).
2. Unless specifically approved otherwise, all pavements must be repaired within 48 hours of completion of work or Bond will be withheld.
3. ADA Codes must not be violated during the work closure.
4. ADA specifications shall be ADAAG.

I, (Sign & Print) Michael D. Warner hereby agree to obey all of the City of Key West requirements for proper repairs

and/or traffic maintenance involved with the above described work, including above storm water retention guidelines as defined by the EPA. I have legal authority to bind the entity to the terms and conditions of this permit. Maintenance of traffic shall be governed by requirements prescribed by the Florida Department of Transportation regulations. Protection of property, either public or private, shall be governed by City Code (including Chapter 62), the requirements of the Standard Building Code, and any specific conditions noted above. I also agree that forty eight (48) hours prior notification shall be given to all occupants and owners of properties that are in the same block as to when and where the work will be performed.

A deposit in the form of certified funds payable to the City of Key West may be required. The amount required will be sufficient to cover expert repairs or to reimburse the City for improper materials or workmanship should I not comply with the terms of this agreement. The funds will be returned if the inspection of the completed work is satisfactory to Engineering Services.

I further agree to indemnify the City of Key West, its employees, agents and invitees from any injuries to person and/or damage to property as a result of the above described work. This indemnification shall survive the completion of the work described above.

SECTION IV – BONDS *inter-office use only

Bond Deposit: \$	Date:	Received from:	Receipt#:
Cash <input type="checkbox"/> Certified Check <input type="checkbox"/> Money Order <input type="checkbox"/> Insurance Bond <input type="checkbox"/>			
Inspected for compliance by:	Date:		
Bond returned <input type="checkbox"/> Date:	Amount: \$		
Person receiving bond refund: Printed		Signature	

SECTION V – FEES

- Maintenance of traffic application fee.....20.00
- Maintenance of traffic permit fee.....30.00
- Paid Parking Fee (if obstructed).... \$20.00
- Overnight storage application fee.....10.00
- Overnight storage permit fee.....10.00
- Re-inspection fee (if no compliance with the above permits, thus requiring re-inspection)15.00
- Upon a third submittal of drawings in support of the above permit application(s), staff reviews time of revisions, per hour...45.00

June 20, 2018

Re: 3637 Eagle Ave.
Key West, Fl. 33040

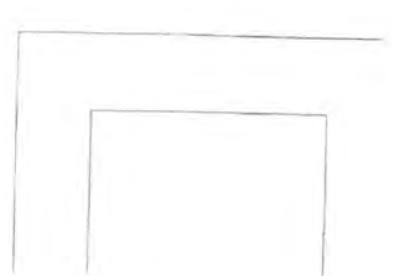
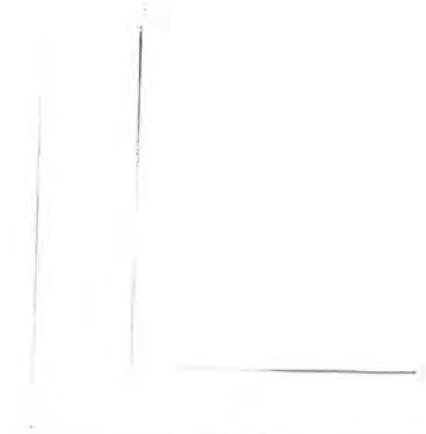
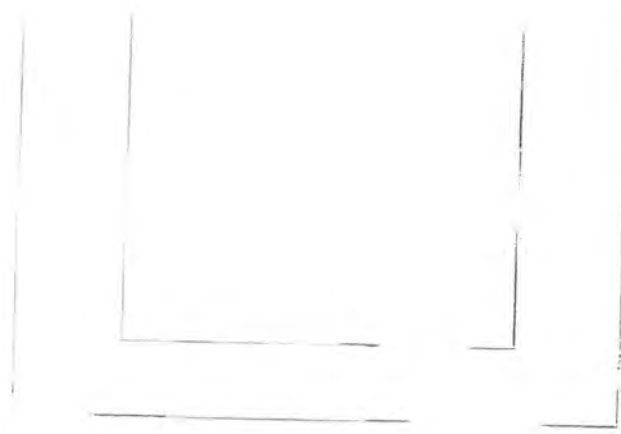
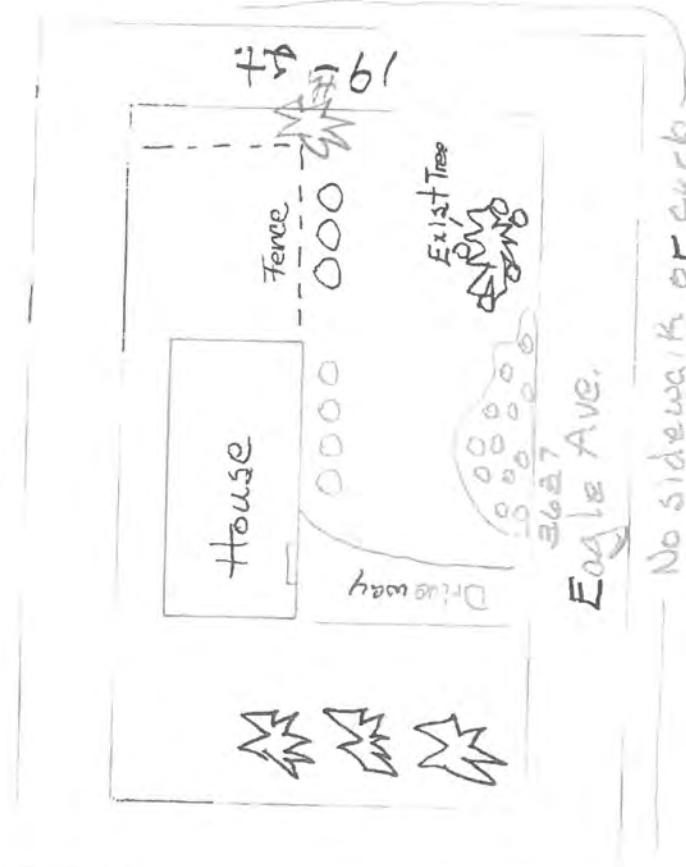
Description of work - Temporary ROW

Renovate front and corner of lawn, by removing the old circular driveway and overgrown plants, and damaged "Irma" vegetation. Replace some of the sod, and plant new vegetation purchased in the Homestead area.

This corner lot (Eagle Ave. & 19th St.) does not have any sidewalks or curb.

Mike Werner
920-382-1883
In Wisconsin

20



Mike Werner

10441 Chief Kuno Trail
Fox Lake, WI 53933
920-382-1883 (cell)

Office:



Karen DeMaria

From: Mike Werner <mike.werner@wernerharmen.com>
Sent: Monday, June 18, 2018 12:36 PM
To: Andrea S. Gomez
Cc: Karen DeMaria
Subject: Re: 3637 Eagle Ave right of way planting and maintenance

Good Morning Karen, Andrea

Please accept my apology for the late response in regard to the ROW applications.

As an update, I have been at my home in Wisconsin since late May, and have not planed on returning to Key West until late August 2018, and for the past week have been on a vacation with my grandchildren. I can assure you that I have every intention of resolving any misunderstand on my part after I and my family and friends with help from Home Depot equipment rental did our best to revamp the front yard of our new home at 3637 Eagle Ave. The work done (in my opinion) was to renovate the front yard by removing the old circular driveway and overgrown plants, replace some of the sod, and plant new up-to date vegetation that I purchased in the Homestead area and was very well received by many neighbors and often stopped cars with enthusiastic congratulations. My love for Key West (been a legal resident for years) is about as genuine as it comes, and my desire to have a new home with a great lawn has always been my objective and if I did something wrong, I want to rectify it as soon as possible.

I have received the Temporary and Permanent Application and will fill them out as an after the fact, to the best of my ability. After mailing them to you, if necessary please contact me, so that we can resolve this matter.

Thanks for your help and concern,

Mike Werner
In Wisconsin

On Mon, Jun 18, 2018 at 8:54 AM, Andrea S. Gomez <agomez@cityofkeywest-fl.gov> wrote:

Good Morning Mike,

We had not heard any response yet, so I wanted to send over a blank Permanent Right of Way Application for your submittal. Permanent Right of Way applications need to be filled out for any permanent work or changes to the City Right of Way being done. They should include a detailed description of the work being done on the application, as well as detailed plans showing this work. Plans should have dimensions of work and show where the property line is, where the right of way begins and ends, and where the road or pavement is.

If any part of the Road or sidewalk will be closed completely or partially during work, a temporary Right of Way permit needs to be filed with Code as well. I am attaching a blank application for you. This should show the Maintenance of

Karen DeMaria

From: Karen DeMaria
Sent: Tuesday, June 12, 2018 11:23 AM
To: 'Mike Werner'
Cc: Andrea S. Gomez
Subject: 3637 Eagle Ave right of way planting and maintenance

Mike:

A recent drive by of your property at 3637 Eagle Avenue indicates that work has been done in the right of way without benefit of a right of way permit including the removal of a protected tree. I did check with the engineering department and they verified no permit had been issued. Also, a sea grape tree located next to the mahogany tree near the intersection with 19th Street has been removed without benefit of a tree removal permit or a City right of way permit. The last correspondence you had with this office indicated your desire to remove the sea grape hedge in front of the driveway. The sea grape tree was separate of this hedge area.

Who did the removal and planting work?

You will need to submit a right of way permit application to be processed after the fact by the engineer department. This permit is required and includes a maintenance agreement between you and the City. I have copied them on this e-mail.

The removal of the sea grape tree will be processed through my office through an administrative hearing in front of the Tree Commission once I receive the requested additional information from you as to who did the work.

Sincerely,

Karen

Karen DeMaria

From: Andrea S. Gomez
Sent: Tuesday, May 22, 2018 12:06 PM
To: Karen DeMaria
Subject: RE: 3637 Eagle Avenue

We did not.

From: Karen DeMaria
Sent: Tuesday, May 22, 2018 12:04 PM
To: Andrea S. Gomez <agomez@cityofkeywest-fl.gov>; Janet Muccino <jmuccino@cityofkeywest-fl.gov>
Subject: 3637 Eagle Avenue

Did you issue a right of way permit to 3637 Eagle Avenue to do planting/removals? I took the attached photo last week.

Sincerely,

Karen

Karen DeMaria
Urban Forestry Manager/Tree Commission
Certified Arborist
305-809-3768

Karen DeMaria

From: Karen DeMaria
Sent: Tuesday, May 01, 2018 8:59 PM
To: Karen DeMaria
Subject: Eagle
Attachments: IMG_1608.JPG; ATT00001.txt; IMG_1607.JPG; ATT00002.txt; IMG_1606.JPG; ATT00003.txt

3637 Eagle







Karen DeMaria

From: Karen DeMaria
Sent: Thursday, February 01, 2018 1:36 PM
To: 'Mike Werner'
Subject: FW: Request for removal of Sea Grape bushes at 3637 Eagle Ave.
Attachments: Permanent Right of Way Permit Application.pdf

Mike:

Attached is an application to do work in the right of way. It appears that the work you want to do is being received favorably but a right of way permit application would need to be processed to do the work. Janet Muccino, engineering dept, currently reviews those applications.

Sincerely,

Karen

From: Janet Muccino
Sent: Thursday, February 01, 2018 1:31 PM
Subject: RE: Request for removal of Sea Grape bushes at 3637 Eagle Ave.

Hi,

Any work in the City's Right of Way (ROW) must have a ROW permit issued with sketch, contractor and description of work.

I have attached ROW permit form.

From: Karen DeMaria
Sent: Thursday, February 01, 2018 1:21 PM
To: Ronald Ramsingh <r Ramsingh@cityofkeywest-fl.gov>; Todd C. Stoughton <tstoughton@cityofkeywest-fl.gov>
Cc: Janet Muccino <jmuccino@cityofkeywest-fl.gov>; Marcus A. Davila <madavila@cityofkeywest-fl.gov>
Subject: FW: Request for removal of Sea Grape bushes at 3637 Eagle Ave.

I have no problem with his request to remove the sea grape hedge or the two stumps from the City right of way. Are there any procedures that need to be followed? Do any of you have an issue with his request?

Sincerely,

Karen

From: Mike Werner [<mailto:mike.werner@wernerharmen.com>]
Sent: Tuesday, January 23, 2018 5:02 PM
To: Karen DeMaria <kdemaria@cityofkeywest-fl.gov>
Subject: Request for removal of Sea Grape bushes at 3637 Eagle Ave.

Good Afternoon Karen,

Thank you for promptly returning my phone call on Monday (1/22/18) and offering advise and guidelines for landscaping for our new home at 3637 Eagle Ave.

As suggested I am requesting permission for 2 landscaping projects.

1. At owners expense removing Sea Grape bushes along the the Eagle Ave. frontage area of our home. These bushes have been un-cared for, and create a serious hazard by blocking the sight line when leaving our driveway and entering Eagle Ave.

2. On the 19th Street side (this is a corner lot) on the city right of way, 2 palms where destroyed by Irma, and the city crew has totally removed both tress, although the stumps still remain and will make it difficult for me to maintain the grass (mowing) area. At my expense have stumps removed (ground out) and covered with seed and dirt.

Once again Thank You for you help and I look forward to your reply.

Mike Werner
3637 Eagle Ave.
Key West, Fl. 33040
920-382-1883