



**BACKGROUND:**

This is a request for an easement pursuant to Section 2-938 (b) (3) of the Code of Ordinances of the City of Key West. The easement request is for a total of 545 square feet, more or less, to maintain brick pavers that have been installed onto the Harris Avenue right-of-way as shown on the attached specific purpose survey. The property is located within the Single-Family zoning district. The property is not located in the Key West Historic District. The applicant received a code violation on October 17, 2019, Case No. 19-01531 for installing brick pavers in front of the property without a building permit on the City's Right-of-Way.



*Site Visit – February 9, 2021*

**City Actions:**

Development Review Committee:  
City Commission:

February 27, 2020  
March 2, 2021

**PLANNING STAFF ANALYSIS:**

As described in the Specific Purpose Surveys drawn by J. Lynn O'Flynn, P.S. of J. Lynn O'Flynn, Inc., dated February 18, 2020, the area of the easement request is for a total of 545 square feet more or less.

A site visit was conducted on February 9, 2021. The encroachment does not impede public passage.

If the request for the easement over City-owned land is granted, then the Owners would be required to pay an annual fee of \$400.00 to the City for the use of 545 square feet, more or less, of city property pursuant to Code Section 2-938(b)(3). The annual fee would be pro-rated based on the effective date of the easement.

**Options / Advantages / Disadvantages:**

**Option 1.** Approve the easement request of approximately 545 square feet on the Harris Avenue right-of-way in order to maintain brick pavers that have been installed with the following conditions:

1. The easement shall terminate upon the removal of the brick pavers.
2. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
3. The Owners shall pay the annual fee of \$400.00 specified in Code Section 2-938(b)(3).
4. The Owners shall irrevocably appoint the City Manager as its agent to permit the removal of the encroachments if the annual fee required by the Code of Ordinances is not paid.
5. Prior to the easement becoming effective, the Owners shall obtain Personal Liability insurance that extends coverage to the property that is governed by this easement with limits of no less than \$300,000.00. Coverage must be provided by an insurer authorized to conduct business in the State of Florida and with terms and conditions consistent with the latest version of the Insurance Service Office's (ISO) latest filed Personal Liability form. Grantees shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as "Additional Insured".
6. The easement areas shall not be used in site size calculations such as lot, yard, and bulk calculations for site development.
7. The City reserves the right to construct surface or sub-surface improvements within the easement areas.
8. The areas to maintain brick pavers onto Harris Avenue shall be the total allowed within the easement area.
9. To the fullest extent permitted by law, the Owners expressly agrees to indemnify and hold harmless the City of Key West, their respective officers, directors, agents and employees (herein called the "indemnitees") from any and all liability for damages.

**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.

**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 requested easement.

**Option 2.**

Deny the easement request with the following conditions:

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. The City would however lose the potential to collect the revenue of the easement agreement.