



MEMORANDUM

Date: November 14th, 2024 City Commission Meeting

To: Honorable Mayor and Commissioners

Via: Todd Stoughton
Interim City Manager

From: Katie P. Halloran, Planning Director
with revisions by: Ron Ramsingh, City Attorney

Subject: **Request for an Easement Agreement at 920 Caroline Street (RE #00002790-000000)**

Introduction

The above-referenced application involves a request for an easement of approximately 453 square feet to construct a fence and outdoor area on the adjacent parcels of 300 Grinnell Street, owned by the City of Key West. The property located at 920 Caroline Street is currently improved with a one-story commercial structure within the Historic Residential Commercial Core – 2 (HRCC) District.

The City Commission is authorized to consider the granting of an easement pursuant to Chapter 2 (Administration), Article VIII (City Property) Division 3 (Real Property Disposition).

Background

Sec. 2-938 (Easements) states, in part, that the *“City may grant an easement over any lands or interest therein owned by the city or any city agency.”* According to Sec. 2-938 (b), *“If the City grants an applicant's request for easement over any lands owned by the city or any city agency, the applicant shall pay an annual fee to the city. The annual fee shall be prorated based on the effective date of the easement.”*

The Park and Ride facility in Grinnell Street is built on parcels of land currently owned by both the City of Key West and Keys Energy. Key West owns the land on the James Street side of the facility and The Utility Board of the City of Key West (Keys Energy) owns the land on the Grinnell and Caroline Street sides of the facility. The City also owns the parcel of land that currently operates as the bus parking lot on Caroline Street. Adjacent to the bus parking lot and the city-owned parcel of the Park and Ride is 920 Caroline St, which is privately owned. 920 Caroline St. has historically operated as several restaurant, including P.T.'s Late Night, Duces Off The Hook, and others. The new owners are in process of opening a Square Grouper restaurant.

The structure was built around 1940 but is not historically contributing, and is improved with commercial restaurant space. The current building goes all the way to the south property line with the City of Key West. There is a swath of land between the restaurant and the parking garage that the restaurant owners are seeking to use for fencing to prevent trespassers on their property, as well as uses incidental to a restaurant operations such as worker break area, storage, etc.

The applicant is also seeking a separate easement from Keys Energy for the larger area on the east side of the restaurant for fencing. The applicant could possibly seek to add outdoor seating in the near future on the Keys Energy land. This area is depicted in pink highlight on the attached survey, as well as the attached pictures. If the Applicant seeks to expand consumption area on Keys Energy land in the future, that expanded use would require approvals by the Planning Department and/or Planning Board.

This easement request was reviewed at a publicly held Development Review Committee hearing on October 15th, 2024. There were no concerns from staff.

Procurement

If the request for the easement over City-owned land is granted, the Grantee shall be required to pay an annual fee to the City consistent with the below provisions contained in Sec. 2-938:

(b) If the city grants an applicant's request for easement over any lands owned by the city or any city agency, the applicant shall pay an annual fee to the city. The annual fee shall be prorated based on the effective date of the easement. The applicant shall pay the fee each subsequent year the easement is in effect, as follows:

(1) Each easement granted by the city for the use of less than 20 square feet of city property, \$200.00.

(2) Each easement granted by the city for the use of 20 square feet to 100 square feet of city property, \$300.00.

(3) Each easement granted by the city for the use of more than 100 square feet of property, \$400.00.

Recommendation

The Planning Department recommends APPROVAL of the proposed easement agreement subject to the following conditions:

Conditions:

1. The Easement shall allow for the existing encroachments as depicted on the south and southwestern portions of the survey prepared by Robert Reece, of Reece & Associates, dated February 2nd, 2024, and a total easement area of 453 square feet as depicted on the survey prepared by Robert Reece, of Reece & Associates, dated February 2nd, 2024. Additional or future easement area shall require an amendment in accordance with Sec. 2-938 of the City Code.
2. Any and all fencing/walls shall be subject to the review and approval of the City of Key West Historic Architectural Review Commission (HARC) consistent with HARC Guidelines.
3. Any and all proposed commercial consumption area, commercial activity, or expanded use within the easement area shall require appropriate approval pursuant to section 108-91 of the City Code.
4. Use of the easement area associated with property owned by the City of Key West adjacent to the south and west property lines shall be limited to storage, equipment, and uses ancillary to the operation of a restaurant. Use of the easement on City owned property for consumption purposes shall be prohibited without required city approvals.
5. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
6. The Grantee shall pay the annual fee as specified in Section 2-938(b)(3) of the City Code.
7. Grantee 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.
8. Prior to the easement becoming effective, the Owners shall obtain Commercial General 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 Commercial General 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" or "Additional Interest".
9. The easement areas 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 or sub-surface improvements within the City owned easement areas.
11. The City reserves the right of entry/re-entry for the easement areas for the purposes of inspection, maintenance, improvements, and operations in connection with City owned/leased property.
12. To the fullest extent permitted by law, the Grantee 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 caused by or resulting from the Grantee's improvement in the easement area.

13. The easement(s) shall automatically extinguish should the Grantee transfer, convey, or otherwise surrender control of the business or property located at 920 Caroline Street, Key West, FL.



Looking at SW corner from bus lot

SW corner looking south from bus to



looking east from SW corner



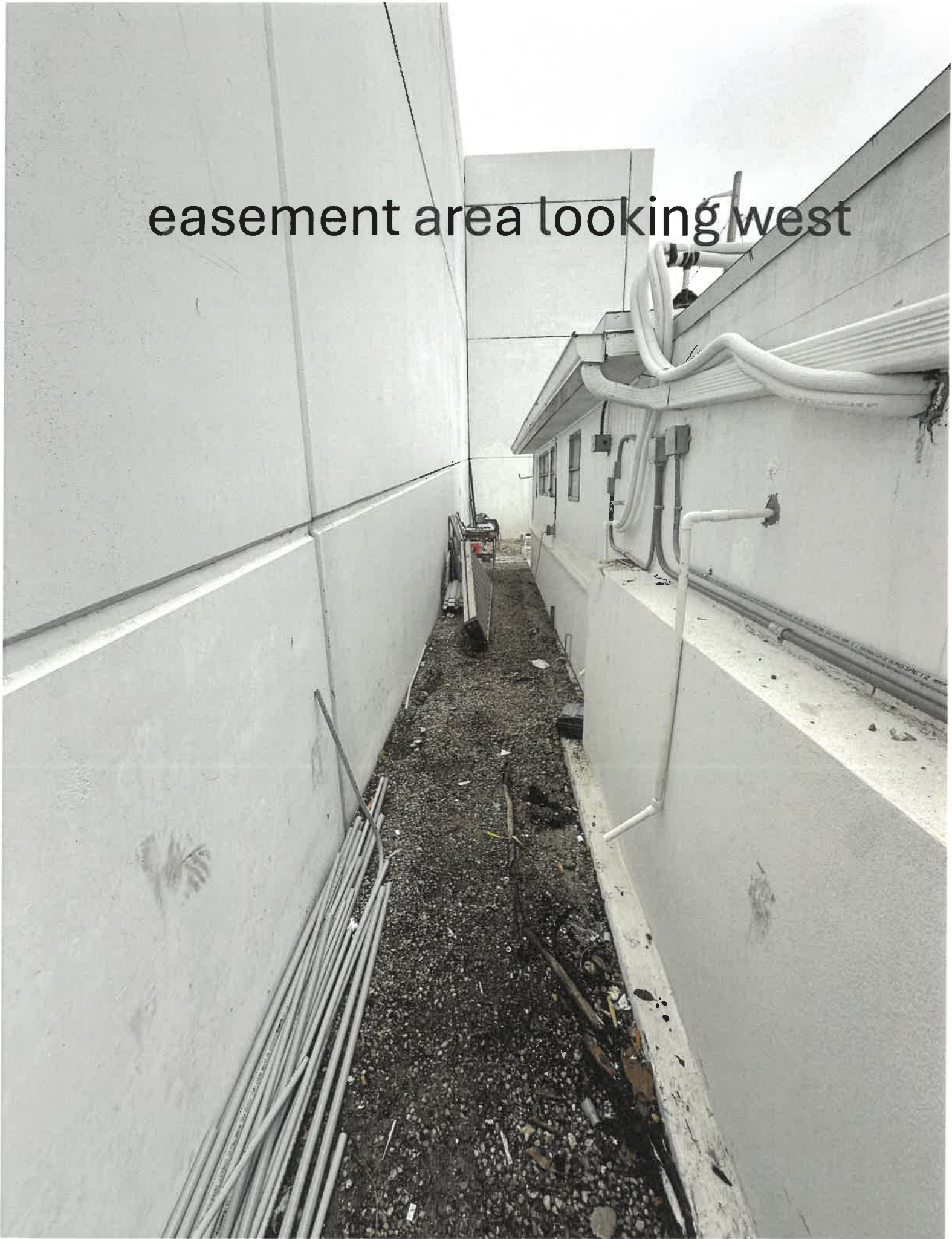
looking east from SW corner





view from bus lot

easement area looking west



Keys Energy property on east side of restaurant subject to seperate easement from Keys looking north

