

EXECUTIVE SUMMARY



To: James K. Scholl, City Manager
Through: Thaddeus Cohen, Planning Director
From: Melissa Paul-Leto, Planner Analyst
Meeting Date: April 5, 2016

RE: **Easement – 907 Frances Street (RE # 00021700-000000, AK # 1022454)** – A request for an easement in order to maintain the eaves on the principal structure, a detached bedroom, two existing cisterns, a shed, a wooden fence, a concrete wall, brick pavers and landscaping which encroaches onto the Havana Avenue Right-of-Way located within the Historic High Density Residential (HHDR) Zoning District pursuant to Section 2-938 of the Code of Ordinances of the City of Key West, Florida.

ACTION STATEMENT:

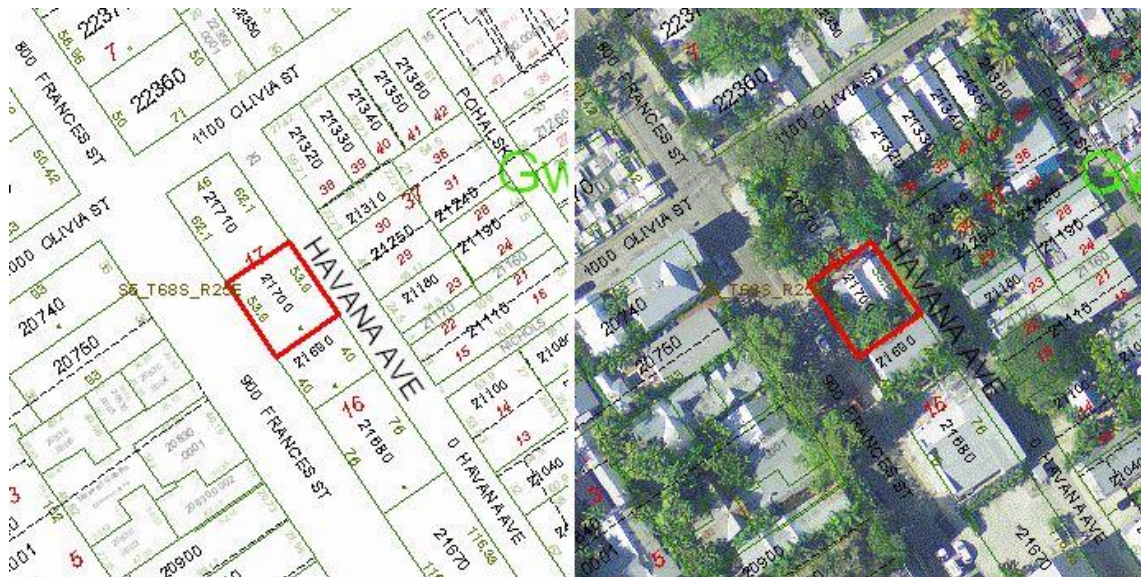
Request: To grant an easement of approximately 461 square feet more or less within City right-of-way abutting the property.

Applicant: Trepainer & Associates

Property Owner: Carolyn A. Sprogell

Location: 907 Frances Street (RE # 00021700-000000, AK # 1022454)

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 easement request is for ±461 square feet along the rear property line on Havana Avenue in order to address encroachments of principal structure eaves, a detached bedroom, two existing cisterns, a shed, a wooden fence, a concrete wall, brick pavers and landscaping, as shown on the attached specific purpose survey dated October 7, 2014. The fence line of 907 Frances is consistent with the fence line of the neighboring properties.

CC Res. 99-149:

May 4, 1999, the previous owner of 907 Frances Street was granted an easement for an encroachment of approximately 69.09 square feet. The easement addressed the encroachment of the garage onto City Right-of-Way. The conditions of the easement where to remove the existing shed and the chain link fence due to a sewer line being installed down Havana Avenue.

BOA Res. 00-136:

April 5, 2000, the same property owner received a variance via Board of Adjustment Resolution 00-136 to convert the garage into a detached bedroom and decrease the encroachment of the garage.

However, since the easement in 1999, the encroachments have increased, with the addition of the wooden fence, brick pavers, eaves on the principal structure and landscape inside and outside of the wooden fence.

The condition to remove the shed from the original easement approval was never met.

December 2013:

The property was purchased by Carolyn A. Sprogell.

July 1, 2014: City Commission Meeting

A request for an easement ± 461.10 square feet along the rear property line on Havana Avenue in order to address encroachments of principal structure, detached bedroom, two existing cisterns, shed, wooden fence, concrete wall, brick pavers and landscaping on property.

The easement request was denied by the City Commission.

In 2014, the current owner was cited by Code Compliance for replacement of the rear fence without permits. This action resulted in the review of the original easement and the discovery of the additional encroachments.

City Actions:

City Commission (Res 99-149):	May 4, 1999
Board of Adjustment (Res 00-136):	April 5, 2000
Development Review Committee:	June 25, 2015
Planning Board:	April 5, 2016

PLANNING STAFF ANALYSIS:

As described in the Specific Purpose Survey drawn by J. Lynn O’Flynn of J. Lynn O’Flynn, Inc., dated October 7, 2014, the area of the easement request is for 461 square feet more or less. The

principal structure, detached bedroom, two existing cisterns, shed, wooden fence, concrete wall, brick pavers and landscaping encroaches 7.10 square feet onto the Havana Avenue Right-of-Way (ROW).

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 461 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. Revoke City Commission easement approval Resolution No.99-149 and deny the easement request for ±461 square feet with the following condition:

1. 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 consistent with the Strategic Plan.

Financial Impact: There would be no cost to the City for revoking easement Resolution No. 99-149. The City would however lose the potential to collect the revenue of the easement agreement.

Option 2. Deny the easement request for ±461 square feet; request the applicant be in compliance with Resolution No. 99-149 and Resolution No. 00-136, with the following condition:

1. Remove the existing shed, wooden fence, brick pavers, eaves on the principal structure and landscaping inside and outside of the wooden fence that are encroaching on the City Right-of-Way.

Consistency with the City's Strategic Plan, Vision and Mission: The City's Strategic Plan is silent to this issue.

Financial Impact: The City will remain collecting \$400.00 annually for the approved Easement Resolution No. 99-149.

Option 3. Revoke City Commission easement approval Resolution No. 99-149 and approve the easement request for only the encroachment of the eaves of the principal structure and detached bedroom, with the following conditions:

1. The easement shall terminate upon the replacement of the 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 provide a revised survey which shows the total square footage of the encroachment of the eaves of the principal structure and detached bedroom.
4. The owner shall pay the annual fee based on the total square footage of the eaves of the principal structure and detached bedroom specified in Code Section 2-938(b).

5. 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.
6. 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.
7. The existing eaves on both the principal structure and the detached habitable bedroom, shall be the only total allowed construction within the easement area.
8. The easement area shall not be used in site size calculations such as lot. Yard, and built calculations for site development.
9. The City reserves the right to construct surface or sub-surface improvements within the easement area.
10. The owner will obtain all necessary approvals to remove the existing shed, wooden fence, brick pavers and landscaping inside and outside of the wooden fence.

Based on the existing conditions, the Planning Department recommends to the City Commission **APPROVAL** of the proposed Resolution **revoking** easement approval Resolution No. 99-149 and **approving** the easement request for only the encroachment of the eaves of the principal structure and detached bedroom, with the following conditions:

1. The easement shall terminate upon the replacement of the 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 provide a revised survey which shows the total square footage of the encroachment of the eaves of the principal structure and detached bedroom.
4. The owner shall pay the annual fee based on the total square footage of the eaves of the principal structure and detached bedroom specified in Code Section 2-938(b).
5. 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.
6. 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.
7. The existing eaves on both the principal structure and the detached habitable bedroom, shall be the only total allowed construction within the easement area.
8. The easement area shall not be used in site size calculations such as lot. Yard, and built calculations for site development.
9. The City reserves the right to construct surface or sub-surface improvements within the easement area.
10. The owner will obtain all necessary approvals to remove the existing shed, wooden fence, brick pavers and landscaping inside and outside of the wooden fence.