

## EXECUTIVE SUMMARY



**To:** Greg Veliz, City Manager

**Through:** Roy Bishop, Planning Director

**From:** Angela Budde, Planner I

**Meeting Date:** November 6, 2019

**RE:** **Easement – 1026 James Street (RE # 00002580-000000)** – A request for an Easement in order to maintain the encroaching historic front porch and steps that extend 58.0 square feet, more or less, onto the James Street right-of-way on a property located within the Historic Medium Density Residential (HMDR) Zoning District at 1026 James Street, Key West, Florida (RE# 00002580-000000); Pursuant to Section 2-938 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida; Providing fees and conditions, Providing for an effective date.

### **ACTION STATEMENT:**

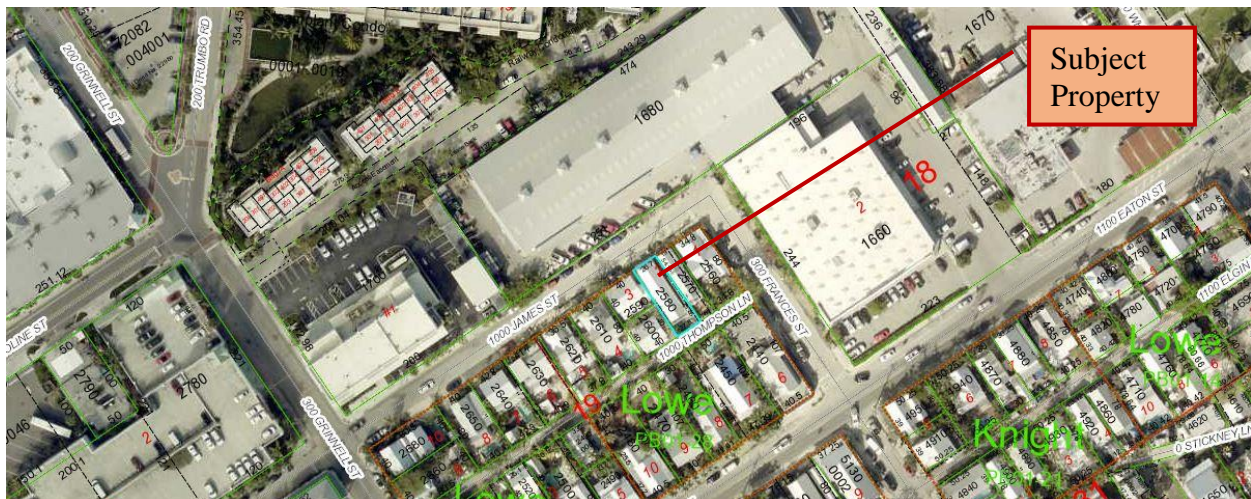
**Request:** To grant an easement to maintain the existing encroachment of the front porch and steps that extend 58.0 square feet, more or less, onto the James Street right-of-way.

**Applicant:** Oropeza, Stones & Cardenas, PLLC

**Property Owners:** 1026 James Street, LLC

**Location:** 1026 James Street (RE # 00002580-000000)

**Zoning:** Historic Medium Density Residential (HMDR) 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 a total of 58.0 square feet, more or less, to maintain the existing encroachment of the front porch and steps that extend onto the James Street right-of-way, as shown on the attached specific purpose survey originally dated July 12, 2019, and a revised certification on October 16, 2019. The property is a contributing structure within the historic district, year built circa 1906. The current owner acquired the property in June of 2019.

**City Actions:**

Development Review Committee:  
City Commission:

September 26, 2019  
November 6, 2019

**PLANNING STAFF ANALYSIS:**

As described in the Specific Purpose Survey drawn by J. Lynn O’Flynn, Inc., dated July 12, 2019, the area of the easement request is for a total of 58.0 square feet, more or less, on the James Street right-of-way.

A site visit was conducted on October 8, 2019. 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 \$300.00 to the City for the use of 58.0 square feet, more or less, of city property pursuant to Code Section 2-938(b)(2). 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 58.0 square feet on the James Street right-of-way in order to maintain the existing encroachment of a front porch and steps with the following conditions:

1. The easement shall terminate upon the removal 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 Owners shall pay the annual fee of \$300.00 specified in Code Section 2-938(b)(2).
4. The Owners 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. 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 1,000,000.00. 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”.
6. The easement area 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 area.
8. The area to maintain the encroaching historic front porch and steps onto James Street 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 damage.

**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 \$300.00 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.

### **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.