

EXECUTIVE SUMMARY



To: Bogdan Vitas, City Manager

Through: Donald Leland Craig, AICP, Planning Director

From: Kevin Bond, AICP, LEED Green Associate, Planner II

Meeting Date: February 4, 2014

RE: **Revocable License – 411 Greene Street (RE # 00000660-000000, AK # 1000671)** – A request for a revocable license for a nonpermanent use of City property to place four benches (two benches within the Greene Street right-of-way and two benches within the Fitzpatrick Street right-of-way) adjacent to property located within the Historic Residential Commercial Core – Duval Street Gulfside (HRCC-1) Zoning District pursuant to Section 2-939 of the Code of Ordinances of the City of Key West, Florida

ACTION STATEMENT:

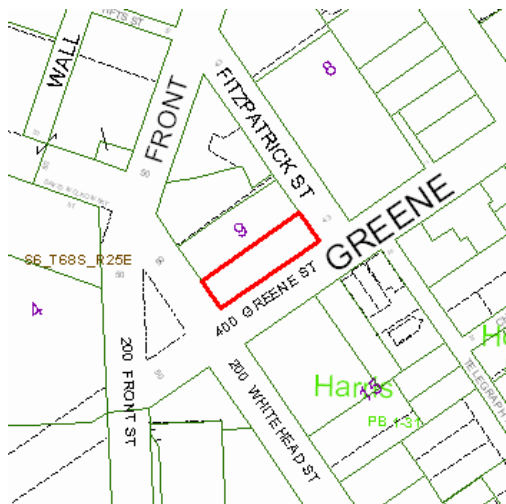
Request: A revocable license for nonpermanent use of City property to place four benches on the sidewalk, including two benches within the Greene Street right-of-way and two benches within the Fitzpatrick Street right-of-way.

Applicant: Jack Alwani, Owner of Blue Gecko Key Lime Pie & Ice Cream Factory

Property Owner: Tracey A. Rupp, Trustee of William Richard Rupp Trust

Location: 411 Greene Street (RE # 00000660-000000, AK # 1000671)

Zoning: Historic Residential Commercial Core – Duval Street Gulfside (HRCC-1)



BACKGROUND:

The applicant wishes to place up to four benches on the sidewalk outside of his business, Blue Gecko Key Lime Pie & Ice Cream Factory, which is located near the corner of Greene and Fitzpatrick Streets. The wooden benches—measuring 63 inches long, 26 inches wide and 35.5 inches high—would be placed on both sides of the doorways along the two streets. The sidewalk is within the rights-of-way of Greene and Fitzpatrick Streets, which are City property. In order to place benches on City property, Section 2-939 of the Code of Ordinances (the “Code”) of the City of Key West (the “City”) states that the City may grant a revocable license for a nonpermanent use of City property, such as planters, awnings, trash receptacles, planted areas, benches, flagpoles, guardrails, ramps and light fixtures. If the City grants an applicant’s request for a revocable license, the applicant must pay a \$200.00 annual fee to the City as long as the license is in effect.

City Actions:

Development Review Committee:

December 20, 2013

City Commission:

February 4, 2014

PLANNING STAFF ANALYSIS:

City staff has reviewed the application through the Development Review Committee (DRC). Concerns were raised about the sidewalk clearance available between the proposed benches and the nearest obstacle or edge of the sidewalks. Although 36 inches in width is the minimum required for ADA accessibility, the City’s Engineering Department prefers to maintain seven (7) feet of clearance along sidewalks, including a two-foot buffer to account for people sitting on the benches.

As shown in the site photos and on the site plan with staff’s notes added, there appears to be insufficient sidewalk clearance along most of Fitzpatrick Street for the proposed benches. Along Fitzpatrick Street where the benches would be located, there is a stop sign, a trash can, a planter area for a palm tree and a street light. However, there appears to be sufficient sidewalk width along Greene Street.

The applicant has stated and City staff recommends that, if the revocable license is approved, the benches be removed from the sidewalks and stored inside the applicant’s business when the business is closed to help prevent potential nuisances. Furthermore, staff recommends that if the revocable license is approved, the applicant maintain liability insurance naming the City as an additional insured, and that the license only be granted to the applicant as the current tenant of the property and not be transferrable to future tenants or property owners.

Options / Advantages / Disadvantages:

Option 1. To approve the revocable license for nonpermanent use of City property to place four benches on the sidewalk, including two benches within the Greene Street right-of-way and two benches within the Fitzpatrick Street right-of-way with the following conditions:

1. The revocable license is granted only to Jack Alwani, owner of Blue Gecko Key Lime Pie & Ice Cream Factory, and shall not transfer to succeeding tenants or property owners of 411 Greene Street.
2. Seven (7) feet of sidewalk clearance shall be maintained at all times between the benches and the edge of the sidewalk or the nearest obstacle.
3. All benches shall be removed from the sidewalks and stored inside the applicant's business when the business is closed.
4. The applicant shall pay the annual fee pursuant to Section 2-939(d) of the City Code of Ordinances.
5. The revocable license shall terminate upon the failure of the property owner to maintain liability insurance in a minimum amount of two hundred thousand dollars (\$200,000.00) per person and three hundred thousand dollars (\$300,000.00) per incident (or such other amount as may be legislatively determined to be the maximum extend of sovereign immunity waiver) naming the City as an additional insured for that portion of real property which is the subject of this revocable license.
6. The benches shall not be for exclusive use of the applicant's business or its customers.

1. **Consistency with the City's Strategic Plan, Vision and Mission:** The Strategic Plan is silent to this issue.
2. **Financial Impact:** The City would collect \$200.00 annually as part of the approval of the application. There would be no cost to the City for approval of the resolution.

Option 2. To approve the revocable license for nonpermanent use of City property to place two benches on the sidewalk within the Greene Street right-of-way only with the following conditions:

1. The revocable license is granted only to Jack Alwani, owner of Blue Gecko Key Lime Pie & Ice Cream Factory, and shall not transfer to succeeding tenants or property owners of 411 Greene Street.
2. Seven (7) feet of sidewalk clearance shall be maintained at all times between the benches and the edge of the sidewalk or the nearest obstacle.
3. All benches shall be removed from the sidewalks and stored inside the applicant's business when the business is closed.
4. The applicant shall pay the annual fee pursuant to Section 2-939(d) of the City Code of Ordinances.
5. The revocable license shall terminate upon the failure of the property owner to maintain liability insurance in a minimum amount of two hundred thousand dollars (\$200,000.00) per person and three hundred thousand dollars (\$300,000.00) per incident (or such other amount as may be legislatively determined to be the maximum extend of sovereign immunity waiver) naming the City as an additional insured for that portion of real property which is the subject of this revocable license.
6. The benches shall not be for exclusive use of the applicant's business or its customers.

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

- 2. Financial Impact:** The City would collect \$200.00 annually as part of the approval of the application. There would be no cost to the City for approval of the resolution.

Option 3: Deny the request for revocable license.

- 1. Consistency with the City's Strategic Plan, Vision and Mission:** The Strategic Plan is silent to this issue.
- 2. Financial Impact:** The City would not collect the annual fee of a revocable license.

RECOMMENDATION: Option 2.

Staff recommends Option 2 to the City Commission for approving the proposed resolution granting with conditions a revocable license to Jack Akwani, business owner at 411 Greene Street, for the nonpermanent use of City property to place two benches within the Greene Street right-of-way.