

## EXECUTIVE SUMMARY



**To:** James K. Scholl, City Manager  
**Through:** Patrick Wright, Planning Director  
**From:** Melissa Paul-Leto, Planner Analyst  
**Meeting Date:** June 20, 2017

**RE:** **Easement – Easement – 930 Eaton Street (RE # 00005470-000100)** – A request for an easement in order to maintain the existing building and overhang that encroaches into the Grinnell Street and Eaton Street right-of-ways 243 square feet more or less located within the Historic Neighborhood Commercial (HNC-2) Zoning District pursuant to section 2-938(b)(3) of the Land Development Regulations.

### ACTION STATEMENT:

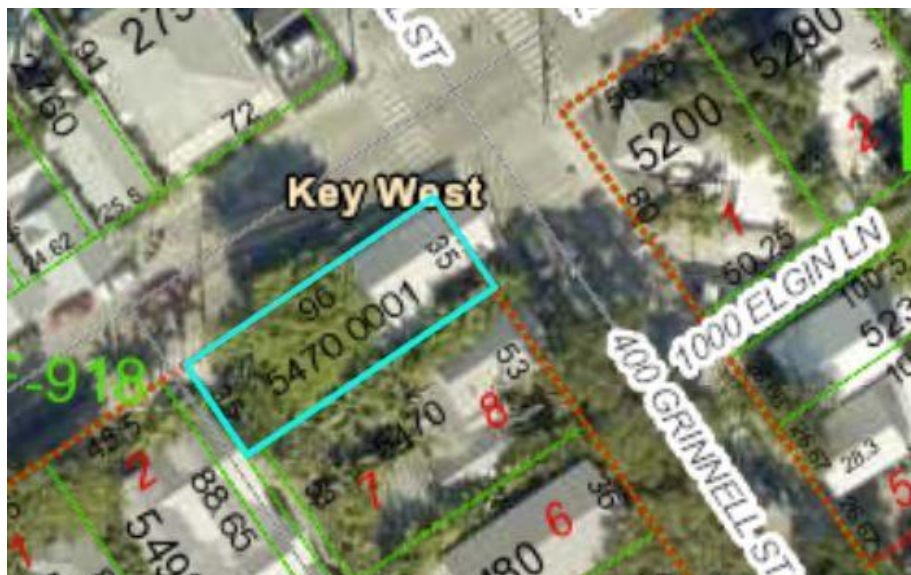
Request: To grant an easement in order to maintain the existing building and overhang that encroaches approximately 243 square feet more or less within the Grinnell Street and Duval Street right-of-ways.

Applicant: Niall Bowen

Property Owner: Nina Cay, LLC, a Florida Limited Liability Company

Location: 930 Eaton Street (RE # 00005470-000100)

Zoning: Historic Neighborhood Commercial (HNC-2) Zoning District



**BACKGROUND:**

The subject property is a two story frame structure that is located on the corner of Eaton Street and Grinnell Street. The overhang facing Eaton Street encroaches onto the Eaton Street sidewalk. The existing building facing Grinnell Street encroaches into the Grinnell street right-of-way. The property owner would like to address the encroachment through the easement process.

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 243 square feet of encroachment onto the Grinnell Street and Eaton Street right-of-ways in order to maintain the existing building and overhang.

**City Actions:**

Development Review Committee: January 26, 2017  
City Commission: June 20, 2017

**PLANNING STAFF ANALYSIS:**

As described in the Specific Purpose Survey drawn by J. Lynn O’Flynn, PSM of J. Lynn O’Flynn, Inc., dated October 21, 2016, the portion of area to maintain the existing building and overhang of approximately 243 square feet more or less onto both Eaton Street and Grinnell Street right-of-ways.

The encroachment does not impede public passage on the City sidewalks. The encroachment allows for access to the elevated commercial building.

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 243 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.** Approve the easement with the following conditions:

1. Prior to the easement becoming effective, the Grantee 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. 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. Grantee shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as “Additional Insured”.
2. The easement shall terminate upon the removal of the structure.
3. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
4. The owner shall pay the annual fee of \$400.00 specified in Code Section 2-938(b) (3).

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 existing building and awning shall be the total allowed construction within the easement area.
7. The easement area shall not be used in site size calculations such as lot, yard, and bulk calculations for site development.

**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 easement. There would be no cost to the City for granting the easement.

**Option 2.** Deny the easement based on findings that the City's needs outweigh the request.

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, however the City would lose the potential to collect the annual 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.