



EXECUTIVE SUMMARY

To: Bob Vitas, City Manager

Through: Donald Leland Craig, AICP, Planning Director

From: Ginny Haller, Planner

Date: October 16, 2012

Request: **Easement 2 - 812 Caroline Street (RE# 0003150-000000)** - A request for an easement of 214 square feet, more or less, to address the encroachment of a fence and concrete slabs that runs along Robert's Alley for a commercial structure located at the corner of Caroline Street and Robert's Alley as per Section 90-587 of the Land Development Regulations of the Code of Ordinances of the City of Key West.

Location: 812 Caroline Street
RE # 0003150-000000

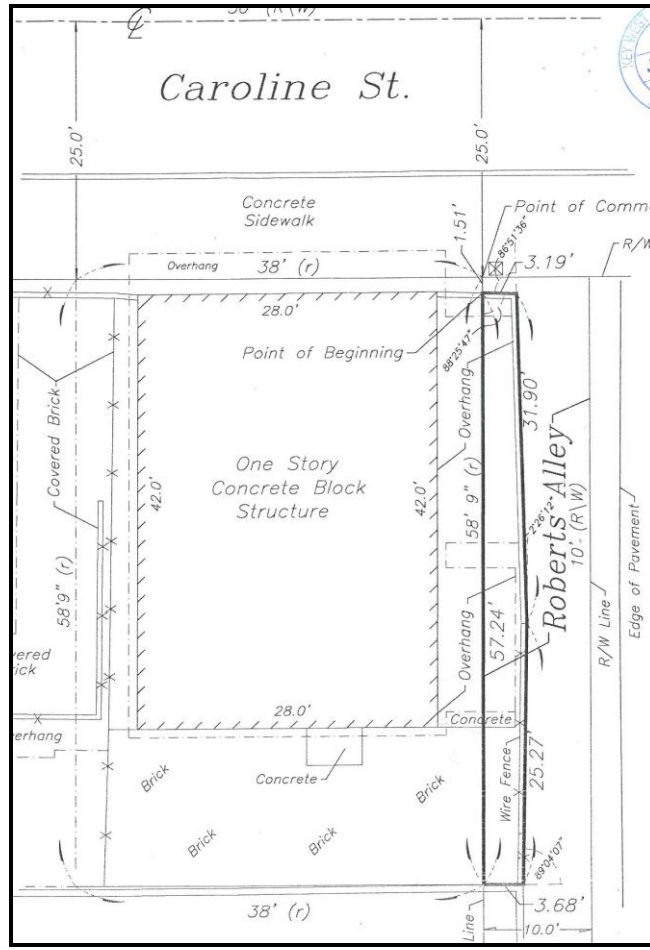
Zoning: HNC-3 (Historic Neighborhood Commercial) Zoning District

BACKGROUND:

The request was due to a Code Compliance case for a non-permitted outdoor display of merchandise. The owner applied for an Exception to Outdoor Display, and during Planning staff review, the owner was informed that he needed to apply for easements from the City for the roof overhang on Caroline Street and the fence encroachment along Roberts Lane. The Exception to Outdoor Display was granted by the Planning Board at their regular meeting September 20, 2012.

This is a petition for easements pursuant to Section 2-938, City of Key West Code of Ordinances. The applicant seeks to obtain easements for 812 Caroline Street. The building is a non-contributing structure in the Historic District. The Gallery is on the corner of Caroline Street and Roberts Lane.

The easement request is divided into two easements with a separate Executive Summary and recommendation for each easement due to the separate and distinct locations of the two encroachments. This Executive Summary is for Easement number 2, which is the fence encroachment and concrete slabs as shown on the specific purpose survey below:



City Actions:

Development Review Committee: July 26, 2012
City Commission: October 16, 2012

PLANNING STAFF ANALYSIS:

Easement 2

As described in the Specific Purpose Survey, the fence encroaches approximately 4 feet into Roberts Lane and extends 31.90 feet along the side of the gallery. The easement is 214 square feet, more or less, and includes a stockade fence, a free-standing structure, and concrete slabs. The Property Appraiser's information says the building was constructed in 1968. The owner says he purchased the building in 1996 and the fence encroachment was in existence at that time.



Additional photographs by the owner and staff have been submitted with this request. City staff has reviewed the application through the Development Review Committee and had the following comments:

- Requested that overhang on Roberts Lane be added to request.
- The free-standing structure in the encroachment on Roberts Lane is not allowed in the Historic District, and owner would need HARC approval.

During a site visit a series of photographs were taken of the interior of the fenced-in easement encroachment area. The photograph below is from the interior of the gallery, looking out to the easement area:



The photo below is looking toward Caroline Street from the encroachment area; it shows an approximately 3 foot high metal roof covering some of the easement area. Underneath is a storage area for what looked like lumber:



The photo below is looking to the rear of the easement area:



The following are photos of the rear yard, showing stacks of wood, old paint cans sitting next to propane tanks, and additional items:







The applicant is required to pay an annual fee of \$400.00 to the city for the 214 square feet, more or less, of city owned property used by the applicant at 812 Caroline Street.

Options / Advantages / Disadvantages:

Option 1. To **approve** the easement of 214 square feet, more or less, with the following conditions:

1. The City may unilaterally terminate the easement upon a finding of public purpose by a vote of the Key West City Commission.
2. That the owner shall pay the yearly fee of \$400.00 specified in the Code of Ordinances Section 2-938.

3. That the easement shall terminate upon the failure of the property owner to maintain liability insurance in a minimum amount of two hundred thousand dollars per person and three hundred thousand per occurrence (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 easement.
4. That the owner shall irrevocably appoint the City Manager as its agent to permit the removal of the encroachment if the yearly fee required by the Code of Ordinances is not paid.
5. That the easement area cannot be used in site size calculations such as lot, yard, and bulk calculations for site development.
6. That the City reserves the right to construct surface improvements within the easement area.
 - a. Consistency with the City's Strategic Plan, Vision and Mission: This action is not inconsistent with the City's Strategic Plan, Vision, and Mission. The Strategic Plan is silent on the granting and administration of easements.
 - b. Financial Impact: The City would collect an annual fee of \$400.00 as part of the approval of the application. There will be no cost to the city for this easement approval.

Option 2. To deny the easement of 214 square feet, more or less, based on findings that the City's needs outweigh the request.

1. Consistency with the City's Strategic Plan, Vision and Mission: This action would not be inconsistent with the City's Strategic Plan, Vision, and Mission. The Strategic Plan is silent on the granting and administration of easements.
2. Financial Impact: The City would lose the potential to collect the revenue of an easement agreement.
3. Approving the easement would have the following negative effects:
 - a. Authorize non-permitted activities;
 - b. Interferes with fire access along Roberts Lane and to the side and rear of the structure;
 - c. Is not needed for the success of the business;
 - d. Is unsightly;
 - e. Is hazardous.

RECOMMENDATION: Staff Recommends the City Commission approve **Option 2**

Based on the existing conditions, the Planning Department recommends **denial** to the City Commission for the proposed **Easement 2**; however, if the City Commission approves **Easement 2**, the Planning Department recommends the following conditions:

1. The City may unilaterally terminate the easement upon a finding of public purpose by a vote of the Key West City Commission.
2. That the owner shall pay the yearly fee of \$400.00 specified in the Code of Ordinances Section 2-938.
3. That the easement shall terminate upon the failure of the property owner to maintain liability insurance in a minimum amount of two hundred thousand dollars per person and three hundred thousand per occurrence (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 easement.
4. That the owner shall irrevocably appoint the City Manager as its agent to permit the removal of the encroachment if the yearly fee required by the Code of Ordinances is not paid.
5. That the easement area cannot be used in site size calculations such as lot, yard, and bulk calculations for site development.
6. That the City reserves the right to construct surface improvements within the easement area.