

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 115.21 square feet, more or less, to address the existing building overhang that encroaches onto Margaret Street and to maintain the existing brick pavers that abut the concrete curb on Margaret Street and the property line of 1021 Margaret and 903 Virginia Streets, as shown on the attached legal description sketch dated July 29, 2019. The site contains three (3) buildings and the main building is a contributing structure within the historic district, year built circa 1920. The current owner acquired the property in April of 2019.

City Actions:

Development Review Committee:
City Commission:

September 26, 2019
November 6, 2019

PLANNING STAFF ANALYSIS:

As described in the legal description sketch drawn by Florida Keys Land Surveying, dated July 29, 2019, the area of the easement request is for 115.21 square feet, more or less. During the Development Review process, members had no comments regarding the existing encroachments.

A site visit was conducted on October 8. The encroachment does not impede public passage on the City sidewalks. The encroachment is over the minimum eight (8)-foot clearance required for any part of a building over City right-of-way.

If the request for the 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 115.21 square feet, more or less, of city property pursuant to Code Section 2-938(b)(3). 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 115.21 square feet to maintain the existing building overhang that encroaches onto Margaret Street and the existing brick pavers between the concrete curb of Margaret Street and the property line of 1021 Margaret and 903 Virginia Streets 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. Grantee shall pay the annual fee of \$400.00 specified in Code Section 2-938(b)(3).
4. Grantee 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 Grantee shall obtain Certificate of 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. Grantee 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 existing building overhang that encroaches onto Margaret Street and the existing brick pavers between the concrete curb of Margaret Street and the property line of 1021 Margaret and 903 Virginia Streets shall be the total allowed within the easement area.
9. To the fullest extent permitted by law, the Grantee 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 \$400.00 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.