

## EXECUTIVE SUMMARY



**To:** Greg Veliz, City Manager

**Through:** Katie P. Halloran, Planning Director

**From:** Melissa Paul-Leto, Planner

**Meeting Date:** August 4, 2020

**RE:** **Easement – 729 Fleming Street (RE # 00006000-000000)** – A request for an Easement Agreement for proposed encroachments totaling 47.0-square feet, more or less, to construct one (1) ADA accessible ramp from an existing concrete curb and ramp that extends onto the Fleming Street right-of-way, and one (1) ADA accessible ramp from an existing concrete curb/planter that would extend onto the William Street right-of-way adjacent to property located within the Historic Medium Density Residential (HMDR) Zoning District pursuant to Section 2-938 (b) (2) 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:**

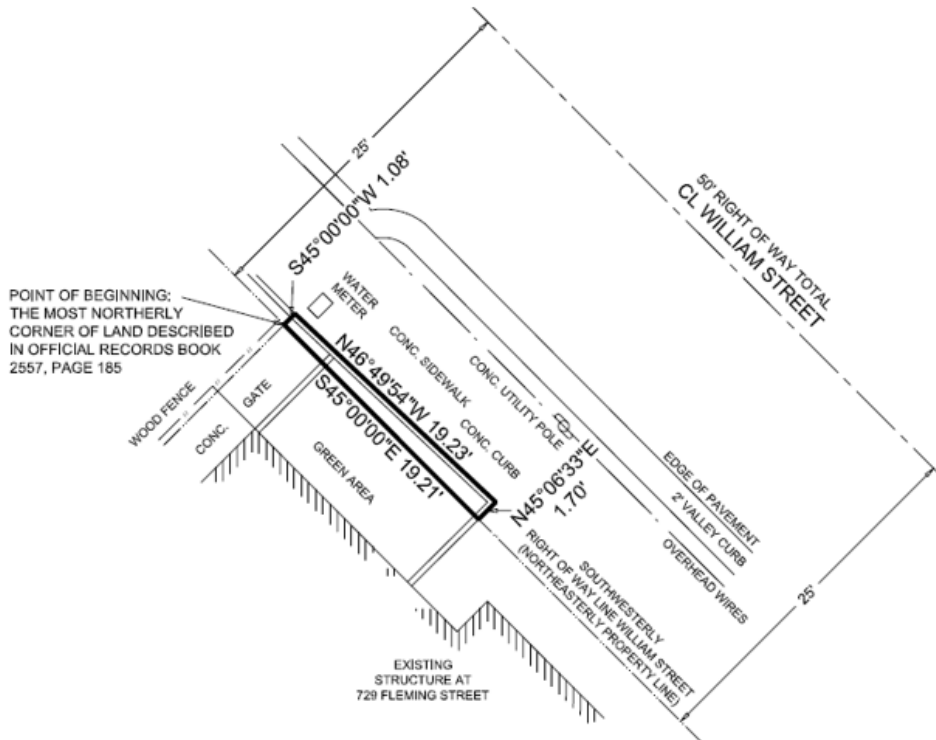
**Request:** To grant an easement to construct two (2) ADA accessible ramps. One (1) ADA accessible ramp would extend onto the Fleming Street right-of-way 20.0 square feet, more or less, and one (1) ADA accessible ramp would extend onto the William Street right-of-way 27.0 square feet more or less.

**Applicant:** Richard McChesney, Esq. – Spottswood Spottswood Spottswood Sterling PLLC

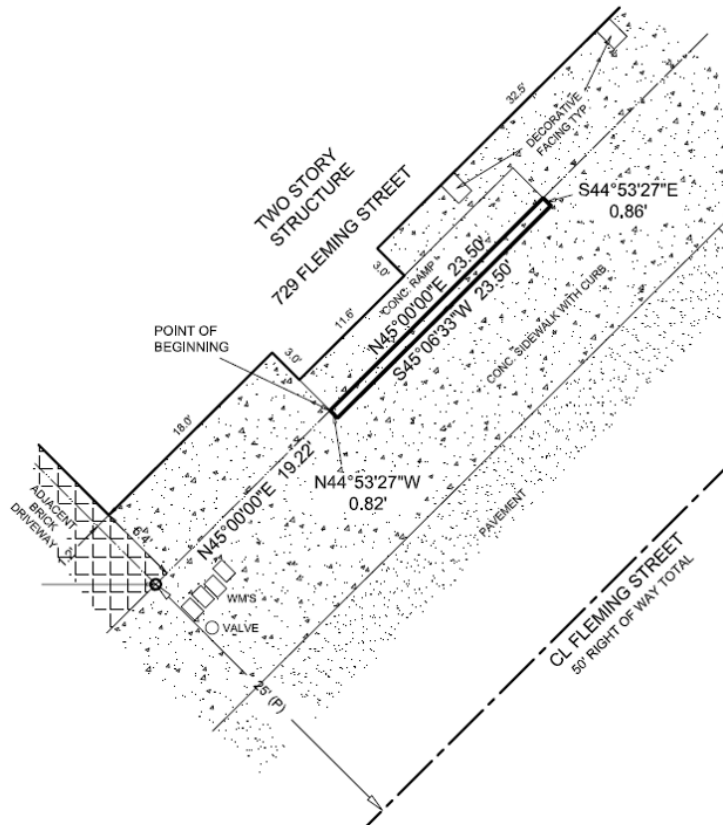
**Property Owners:** Fleming Street Faith Center, INC, a Florida Non-Profit Corporation

**Location:** 729 Fleming Street (RE # 00006000-000000)

**Zoning:** Historic Medium Density Residential (HMDR) zoning district



One (1) proposed ADA ramp that would extend onto the William Street right-of-way 27.0 square feet, more or less.



One (1) proposed ADA ramp that would extend onto the Fleming Street right-of-way 20.0 square feet, more or less.



729 Fleming Street, subject property

**BACKGROUND:**

This is a request for an easement pursuant to Section 2-938 (b) (2) of the Code of Ordinances of the City of Key West. The easement request is for a total of 47.0 square feet, more or less, to construct one ADA ramp onto the Fleming Street right-of-way, and to construct one ADA ramp onto the William Street right-of-way as shown on the two attached specific purpose surveys. The property is a historic, contributing building in the Key West Historic District. It is a Gothic Revival Church built circa 1912 and the use will remain as a church.

**City Actions:**

Development Review Committee:

May 28, 2020

City Commission:

August 4, 2020

**PLANNING STAFF ANALYSIS:**

As described in the Specific Purpose Surveys both are drawn by Robert E. Reece, P.S. of Reece & Associates. The Specific Purpose Survey for one (1) proposed ADA accessible ramp that would encroach onto the Fleming Street right-of-way is dated April 22, 2020 for 20.0 square feet more or less. The Specific Purpose Survey for one (1) proposed ADA accessible ramp that would encroach onto the William Street right-of-way for 27.0 square feet more or less. The easement request is for a total of 47.0 square feet, more or less, on the Fleming and William Street rights-of-way.

A site visit was conducted on July 10, 2020. 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 47.0 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 47.0 square feet on the Fleming and William Street rights-of-way in order to construct two (2) ADA accessible ramps with the following conditions:

1. The easement shall terminate upon the removal of the two (2) ADA accessible ramps.
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 encroachments 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 areas 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 areas.
8. The areas to construct one (1) ADA accessible ramp onto Williams Street, and one (1) ADA accessible ramp onto Fleming Street shall be the total allowed within the easement areas.

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.

**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.

**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.