

## EXECUTIVE SUMMARY



**To:** Jim Scholl, City Manager

**Through:** Donald Leland Craig, AICP, Planning Director

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

**Meeting Date:** August 5, 2014

**RE:** **Easement – 951 Caroline Street (RE # 00002970-000000; AK # 1003069)** – A request for an easement to maintain an existing portion of paver sidewalk and landscaping that extends into the Grinnell Street right-of-way adjacent to property located within the Historic Residential Commercial Core – Key West Bight (HRCC-2) Zoning District pursuant to Section 2-938 of the Code of Ordinances of the City of Key West, Florida

### ACTION STATEMENT:

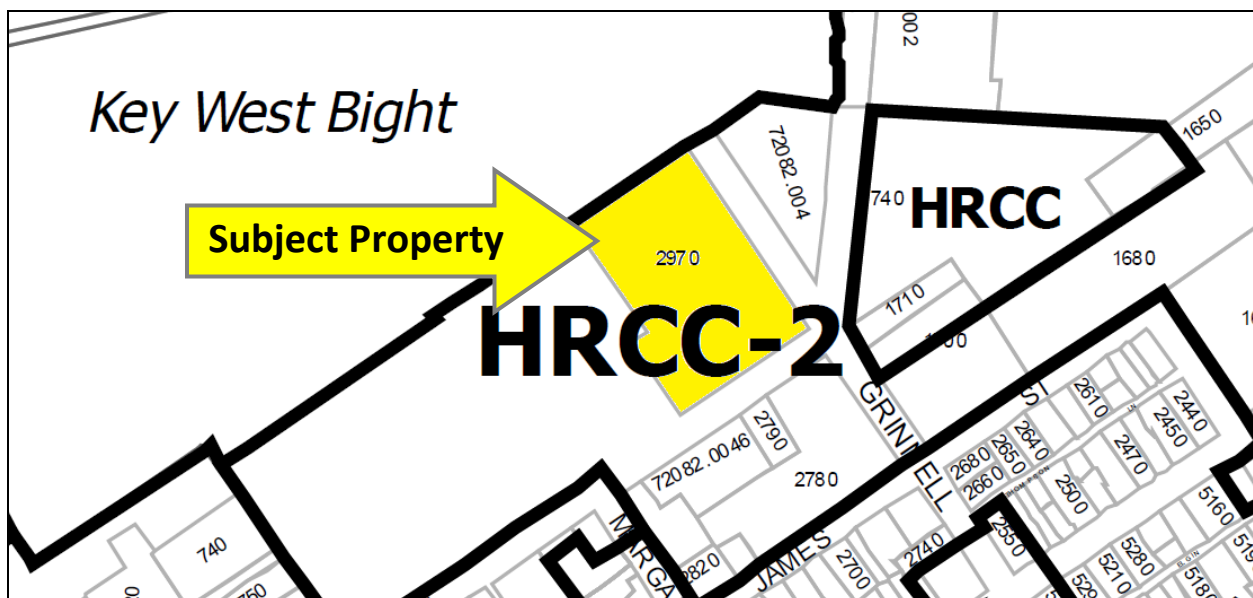
Request: To grant an easement of approximately 129 square feet within City right-of-way abutting the property.

Applicant: Timothy W. Root

Property Owner: Conch Harbor Retail Center LLC

Location: 951-955 Caroline Street (RE # 00002970-000000; AK # 1003069)

Zoning: Historic Residential Commercial Core – Key West Bight (HRCC-2)



**BACKGROUND:**

This is a request for an easement pursuant to Section 2-938 of the Code of Ordinances (the “Code”) of the City of Key West (the “City”). The Property Owner seeks an easement of approximately 129 square feet of Grinnell Street right-of-way for the purpose of maintaining paver walkways and landscaping that extend beyond the property line to the existing concrete curb and brick paver sidewalk within City right-of-way, as shown on the attached specific purpose survey. The walkways and landscaping are associated with West Marine building at 951 Caroline Street and the adjacent store entrance and ADA-accessible ramp. The West Marine building, built in 2013, is a non-contributing structure in the Key West Historic District.

The Property Owner has also requested a “no cost easement,” meaning a waiver of the \$2,150 application fee and the \$400 annual fee for easements over 100 square feet. See the attached letter dated February 10, 2014 from Craig Hunt. The letter references a prior easement granted to the City through Resolution No. 95-324.

**City Actions:**

Development Review Committee:

February 27, 2014

City Commission:

August 5, 2014

**PLANNING STAFF ANALYSIS:**

The existing paver bricks encroach up to five feet into the Grinnell Street right-of-way running 44 feet along the side of the building, as described in the Specific Purpose Survey prepared by Robert Edward Reece of Reece & White Land Surveying, Inc. dated April 30, 2014. The total area of the requested easement is 129 square feet, more or less.

The pavers do not impede public passage on the City sidewalks. There are no other encroachments within the proposed easement area, other than an existing lamp post and concrete curb previously installed by the City within the right-of-way.

Unless the fee waiver is granted, the owner would be required to pay an annual fee of \$400.00 to the City for the use of 129 square feet, more or less, of City property pursuant to Code Section 2-938(b). 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. The easement shall terminate upon the replacement 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. Unless waived by the City Commission, the owner shall pay the annual fee of \$400.00 specified in Code Section 2-938(b).
4. 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.
5. The easement shall terminate upon the failure of the property owner to maintain liability insurance in a minimum amount of \$200,000.00 per person and \$300,000.00 per incident,

or such other amount as may legislatively be determined to be the maximum extent of sovereign immunity waiver, naming the City as an additional insured for that portion of real property which is the subject of this easement.

6. The existing brick pavers 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.
8. The City reserves the right to construct surface improvements within the easement area.

**Consistency with the City's Strategic Plan, Vision and Mission:** Granting the requested easement would not be inconsistent with the Strategic Plan.

**Financial Impact:** Unless the fee waiver is granted, 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.

**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, there would continue to be liability concerns by allowing the encroachment into City property to continue without the easement.

**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.