

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 easement request is for an existing two-story balcony that extends eight (8) feet over the sidewalk within the James Street right-of-way and extends ten (10) feet over the sidewalk within the Grinnell Street right-of-way, as shown on the attached specific purpose survey. The property contains one, two-story building, originally built in 1929 according to the Monroe County Property Appraiser. The building and balcony appear on the 1948 and 1961 Sanborn maps (see attached). The property is located at the southern corner of Grinnell and James Streets. The building is a potentially contributing structure within the historic district. The owner acquired the property in June 2014 and has been making repairs to rehabilitate the building.

City Actions:

Development Review Committee: October 23, 2014
City Commission: January 6, 2015

PLANNING STAFF ANALYSIS:

The balcony projects eight (8) feet into the James Street right-of-way and ten (10) feet into the Grinnell Street right-of-way and runs 56 feet along James Street, turns the corner, and runs 29 feet along Grinnell Street, as described in the Specific Purpose Survey prepared by Frederick H. Hildebrandt of Island Surveying, Inc. dated June 2, 2014. The total area of the requested easement is 727.7 square feet, more or less.

The balcony does not impede public passage on the City sidewalks. The vertical clearance between the sidewalk and the bottom of the balcony exceeds the minimum eight (8)-foot clearance required for any part of a building encroaching over City right-of-way.

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 over 100 square feet 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. 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. Grantee shall secure, pay for, and file with the Grantor, prior to commencing any work under this Agreement, all certificates for public liability, and property damage liability insurance, and such other insurance coverages as may be required by specifications and addenda thereto, in at least the following minimum amounts with specification amounts

to prevail if greater than minimum amount indicated. Notwithstanding any other provision of this Agreement, Grantee shall provide the minimum limits of liability coverage as follows:

General Liability

- a. \$2,000,000 Aggregate (Per Project)
 - b. \$2,000,000 Products Aggregate
 - c. \$1,000,000 Any One Occurrence
 - d. \$1,000,000 Personal Injury
 - e. \$ 300,000 Fire Damage/Legal
6. Grantee shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as “Additional Insured” on a primary and non-contributory basis utilizing an ISO standard endorsement at least as broad as CG 2010 (11/85) or its Equivalent, (combination OF CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations is acceptable) including a “Waiver of Subrogation” clause in favor of City of Key West on all policies. Grantee shall maintain the General Liability coverage summarized above, including the “additional insured” endorsement, with coverage continuing in full force during the period of time this easement agreement remains in effect.
 7. Grantee’s insurance policies shall be endorsed to give 30 days written notice to Grantor in the event of cancellation or material change, using form CG 02 24, or its equivalent.
 8. Certificates of Insurance submitted to Grantor shall not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation / material change notice endorsements and waivers of subrogation. Copies of USL&H Act and Jones Act endorsements shall also be required if necessary. Grantee shall advise its insurance agent accordingly.
 9. The existing balcony shall be the total allowed construction within the easement area.
 10. The easement area shall not be used in site size calculations such as lot, yard, and bulk calculations for site development.
 11. 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: 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.

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.