



EXECUTIVE SUMMARY

To: Jim Scholl, City Manager

Through: Donald Leland Craig, AICP, Planning Director

From: Brendon Cunningham

Date: June 21, 2011

RE: Easement – 327 William Street (RE# 00003270-000000) – An easement request for approximately 307.26 square feet of Caraballo Lane per Section 2-938 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

ACTION STATEMENT:

Request: This request is for an easement for approximately 307.26 square feet of publicly owned right-of-way located toward the end of Caraballo Lane abutting the rear of property located at 327 William Street.

Location: 327 William Street (RE # 00011970-000000)

Zoning: HHDR (Historic High Density Residential Commercial) Zoning District

BACKGROUND:

This is a petition for an easement pursuant to Section 2-938, City of Key West Code of Ordinances. The applicant seeks to obtain an easement for an end portion of Caraballo Lane to construct a gate. This segment is unimproved and does not appear to have been at any time. This portion of the lane is six feet wide and 51 feet in total length and abuts the rear property line of the applicant. The only property that is served by this portion of the lane is that of the applicant. The purpose of the gate is for security reasons. This area is subject to dumping of debris and vagrancy issues.

City Actions:

DRC: June 24, 2010

City Commission: March 15, 2011, postponed
April 5, 2011, postponed

May 3, 2011, postponed
June 21, 2011

PLANNING STAFF ANALYSIS:

Caraballo Lane starts in the 800 block of Eaton Street. It runs northwesterly for 125 feet to the point of beginning then southwesterly for 30 feet and then northwesterly for another 21 feet. As described in the sketches drawn by Reece & White, dated February 16, 2010, the area of the easement request is for that portion at the end of the main portion running southwesterly then northwesterly from the point of beginning. This portion of the lane is comprised of approximately 307.26 square feet. Photographs have also been submitted with the request.

City staff has reviewed the application through the Development Review Committee. There was some concern that public and private utility access may be negatively affected. There were no other comments or concerns regarding the easement application. The applicant sought and received comment from potentially affected utilities. No private utilities objected to the easement request. City staff did not identify any publically owned infrastructure. Therefore, it would appear that granting this easement would not be injurious to the area involved or detrimental to the public interest or welfare.

Per Section 2-938 b (3), each easement granted by the city for the use of more than 100 square feet of property requires an annual fee of \$400.00. The applicant is requesting an easement for the 307.26 square feet and would be obligated to pay the \$400.00 fee should the easement be granted.

Options / Advantages / Disadvantages:

Option 1. To approve the easement of 307.26 square feet with the following conditions:

1. That the City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
2. That the owner shall pay the yearly fee of \$400 specified in Code of Ordinances Section 2-938.
3. That the owner shall irrevocably appoint the City Manager as its agent to permit the removal of the easement if the yearly fee required by the Code of Ordinances is not paid.
4. That the easement shall terminate upon the failure of the property owner to maintain liability insurance in a minimum amount of one hundred thousand dollars (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.

5. The proposed gate will be the total allowed construction within the easement area.

1. **Consistency with the City's Strategic Plan, Vision and Mission:** The Strategic Plan is silent to this issue.
2. **Financial Impact:** The City will collect \$400.00 annually as part of the approval of the application. There will be no cost to the city for this easement approval.

Option 2. Deny the easement based on findings that the City's needs outweigh the request.

1. **Consistency with the City's Strategic Plan, Vision and Mission:** The Strategic Plan is silent to this issue.
2. **Financial Impact:** The City would lose the potential to collect the revenue of an easement agreement.

RECOMMENDATION: Option 1

Based on the existing conditions, the Planning Department recommends **approval** to the City Commission for the proposed **easement** with conditions as follows:

1. That the City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
2. That the owner shall pay the yearly fee of \$400 as specified in the Code of Ordinances Section 2-938 b (3).
3. That the easement shall terminate upon the failure of the property owner to maintain liability insurance in a minimum amount of one hundred thousand dollars (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.
4. That the owner shall irrevocably appoint the City Manager as its agent to permit the removal of the easement if the yearly fee required by the Code of Ordinances is not paid.
5. The proposed gate will be the total allowed construction within the easement area.