

EXECUTIVE SUMMARY



To: Jim Scholl, City Manager
Through: Kevin Bond, AICP, Acting Planning Director
From: Patrick Wright, Planner II
Meeting Date: March 3, 2015

RE: **Easement – 101 Duval Street (RE # 00000470-000000, AK # 1000469)**
– A request for an easement in order to maintain a portion of existing brick entry steps and planters that extend 104 ± square feet onto the Duval Street right-of-way and 155 ± square feet onto the Front Street right-of-way on property located within the Historic Residential Commercial Core Duval Street Gulfside (HRCC-1) zoning district pursuant to Section 2-938 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

ACTION STATEMENT:

Request: To grant an easement in order to maintain an existing portion of brick entry steps and planters that extends 104 ± square feet onto the Duval Street right-of-way and 155 ± square feet onto the Front Street right-of-way.

Applicant: Smith, Oropeza, Hawks, P.L.

Property Owner: Sunset Plaza, Inc.

Location: 101 Duval Street (RE # 00000470-000000, AK # 1000469)

Zoning: Historic Residential Commercial Core Duval Street Gulfside (HRCC-1)



BACKGROUND:

The property is located at the southeast corner of Front Street and Duval Street. The property contains an elevated one-story commercial building. According to the Monroe County Property Appraiser's records the nonconforming structure was built in 1994 and pre dates current City code. The building is a noncontributing structure within the historic district. 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 portion of existing brick entry steps and planters that extend one (1') foot into the Duval Street right-of-way for a length of one hundred and four (104') feet, and for a portion of existing brick entry steps and planters that extend one (1') foot into the Front Street right-of-way for a length of one hundred and fifty five (155') feet.

City Actions:

Development Review Committee: January 22, 2015
City Commission: March 3, 2015

PLANNING STAFF ANALYSIS:

As described in the Specific Purpose Survey prepared by Avirom and Associates, Inc. dated October 24, 2014, the portion of existing brick entry steps and planters project one (1') foot into the Duval Street right-of-way and runs 104 feet along Duval Street, and one (1') foot into the Front street right-of-way and runs 155 feet along Front Street. The total area of the requested easement is 104 ± square feet along the Duval Street right-of-way and 155 ± square feet along the Front Street right-of-way. The combined total area of the easement is 259 ± square feet.

The encroachment does not impede public passage on the City sidewalks. The encroachment allows for access to the elevated commercial building.

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 more than 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 entry steps 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.

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

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; however, the City would lose the potential to collect the annual 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.