

EXECUTIVE SUMMARY



To: Jim Scholl, Interim City Manager

Through: Donald Leland Craig, AICP, Planning Director

From: Carlene Smith, LEED Green Associate, Planner II

Meeting Date: October 21, 2014

RE: **Easement – 506 Elizabeth Street (RE # 00009080-000000; AK # 1009342)** – A request for an easement of approximately ± 77.70 square feet on the Elizabeth Street right-of-way in order to maintain existing eaves, porches and partial fence and gate on property located within the Historic High Density Residential (HHDR) zoning district pursuant to Section 2-938 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

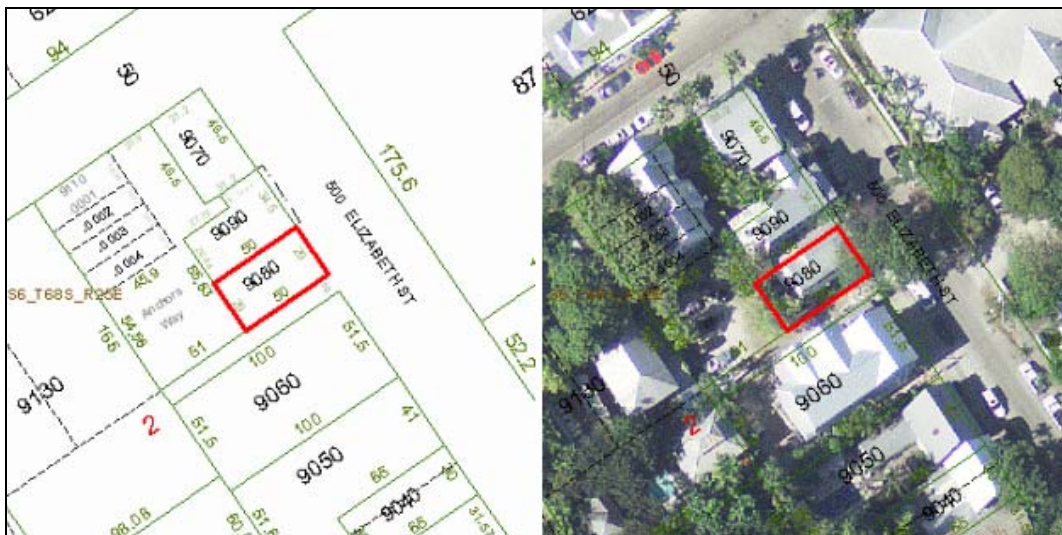
ACTION STATEMENT:

Request: To approve an easement request of ± 77.70 square feet more or less within City right-of-way (ROW) abutting the property.

Applicant /
Property Owner: Jeffrey and Carla Lewis

Location: 506 Elizabeth Street (RE # 00009080-000000; AK # 1009342)

Zoning: Historic High Density Residential District (HHDR)



BACKGROUND:

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 ± 77.70 square feet along the front property line on Elizabeth Street in order to address encroachments of existing eaves, porches and partial fence and gate, as shown on the attached specific purpose survey dated March 4, 2014.

The structure is contributing circa 1912. The property was purchased in March 2014 by Jeffrey and Carla Lewis. The current owners requested HARC approval for exterior work. This action resulted in the review of the encroachments.

City Actions:

Development Review Committee:

August 28, 2014

PLANNING STAFF ANALYSIS:

As described in the Specific Purpose Survey drawn by Florida Keys Land Surveying, dated March 4, 2014, the area of the easement request is for ± 77.70 square feet more or less. During the Development Review process, members had no comments regarding the existing encroachments.

If the request for the easement over City-owned land is granted, then the owner would be required to pay an annual fee of \$300.00 to the City for the use of the ± 77.70 square feet, more or less, of city property pursuant to Code Section 2-938(b)(2). The annual fee would be prorated based on the effective date of the easement.

Options / Advantages / Disadvantages:

Option 1. Approve the easement request of approximately ± 77.70 square feet on the Elizabeth Street right-of-way in order to maintain existing eaves, porches and partial fence and gate, 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 \$300.00 specified in Code Section 2-938(b)(2).
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 eaves, porches and partial fence and gate shall be the only 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 or sub-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 \$300.00 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 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.

RECOMMENDATION: Option 1.

Based on the existing conditions, the Planning Department recommends to the City Commission **APPROVAL** of the easement request for approximately ± 77.70 square feet on the Elizabeth Street right-of-way in order to maintain existing eaves, porches and partial fence and gate with the conditions listed above.