



## EXECUTIVE SUMMARY

**To:** Bob Vitas, City Manager

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

**From:** Ginny Haller, Planner

**Date:** October 16, 2012

**Request:** **Easement 1 - 812 Caroline Street (RE# 0003150-000000)** - A request for an easement of 74.1 square feet, more or less, to address the encroachment of a roof overhang on Caroline Street for a commercial structure located on Caroline Street as per Section 90-587 of the Land Development Regulations of the Code of Ordinances of the City of Key West.

**Location:** 812 Caroline Street  
RE # 0003150-000000

**Zoning:** HNC-3 (Historic Neighborhood Commercial) Zoning District

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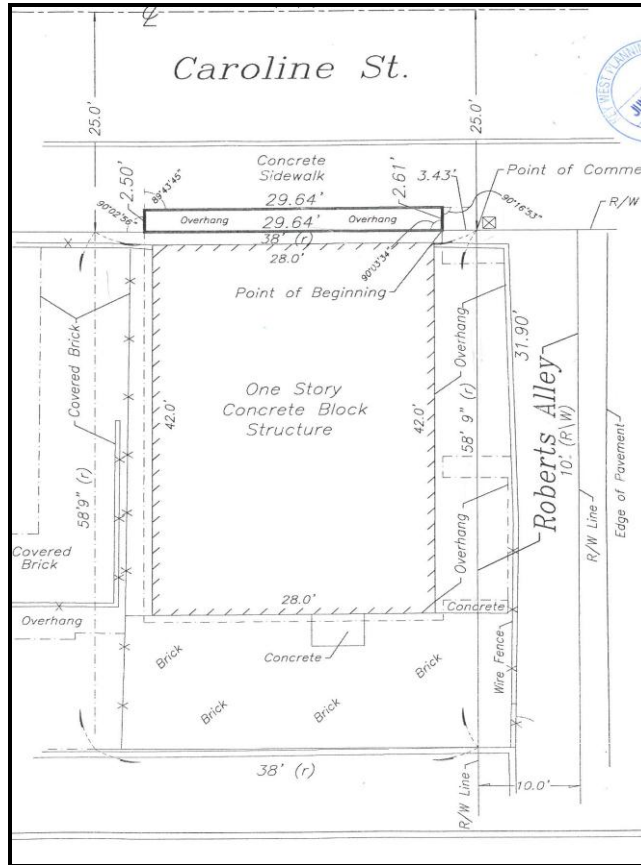
### **BACKGROUND:**

This request was due to a Code Compliance case for a non-permitted outdoor display of merchandise. The owner applied for an Exception to Outdoor Display, and during Planning staff review the owner was informed that he needed to apply for easements from the City for the roof overhang on Caroline Street and the fence encroachment along Roberts Lane. The Exception to Outdoor Display was granted by the Planning Board at their regular meeting September 20, 2012.

This is a petition for easements pursuant to Section 2-938, City of Key West Code of Ordinances. The applicant seeks to obtain easements for the Red Door Gallery at 812 Caroline Street. The building is a non-contributing structure in the Historic District. The gallery is on the corner of Caroline Street and Roberts Lane.

The easement request is divided into two easements with a separate Executive Summary and recommendation for each encroachment due to the separate and distinct locations of the two encroachments. This Executive Summary is for Easement number 1, which is the roof overhang

that encroaches over the sidewalk on Caroline Street, as shown on the specific purpose survey below:



City Actions:

**Development Review Committee:** July 26, 2012  
**City Commission:** October 16, 2012

PLANNING STAFF ANALYSIS:

Easement 1

The roof overhang on Caroline Street does not impede public passage on the City sidewalk in front of the gallery. The overhang is 9.25 feet high, encroaches 2.61 feet over a 10 foot wide sidewalk, and extends 29.64 feet along the front of the gallery. As described in the Specific Purpose Survey drawn by J. Lynn O’Flynn, Inc, dated June 14, 2012, the area of the easement request is for 74.1 square feet, more or less.



The Property Appraiser's information says the building was constructed in 1968. The owner says he purchased the building in 1996 and the roof overhang was there. He received a building permit in 2000 to repair 160 feet of the wooden overhang and replace it with a metal overhang; and HARC staff approval to replace or repair the rotted wood with metal overhang on September 21, 1999 (see Additional Information in file).

Photographs by the owner and staff have been submitted with this request. City staff has reviewed the application through the Development Review Committee and had the following comments:

- Requested that overhang on Roberts Lane be added to request.

The applicant is required to pay an annual fee of \$400.00 to the city for the 74.1 square feet, more or less, of city owned property used by the applicant at 512 Caroline Street.

**Options / Advantages / Disadvantages:**

**Option 1.** To approve the easement of 74.1 square feet, more or less, with the following conditions:

1. The City may unilaterally terminate the easement upon a finding of public purpose by a vote of the Key West City Commission.
2. That the owner shall pay the yearly fee of \$400.00 specified in the Code of Ordinances Section 2-938.
3. That the easement shall terminate upon the failure of the property owner to maintain liability insurance in a minimum amount of two hundred thousand dollars per person and three hundred thousand per occurrence (or such other amount as may be legislatively determined to be the maximum extend 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 encroachment if the yearly fee required by the Code of Ordinances is not paid.
5. That the easement area cannot be used in site size calculations such as lot, yard, and bulk calculations for site development.
6. That the City reserves the right to construct surface improvements within the easement area.
  - a. Consistency with the City's Strategic Plan, Vision and Mission: This action is not inconsistent with the City's Strategic Plan, Vision, and Mission. The Strategic Plan is silent on the granting and administration of easements.
  - b. Financial Impact: The City would lose the potential to collect the revenue of an easement agreement.

**Option 2.** To deny the easement of 74.1 square feet, more or less based on findings that the City's needs outweigh the request.

- a. Consistency with the City's Strategic Plan, Vision and Mission: This action would not be inconsistent with the City's Strategic Plan, Vision, and Mission. The Strategic Plan is silent on the granting and administration of easements.
- b. Financial Impact: The City would lose the potential to collect the revenue of an easement agreement.

**RECOMMENDATION:** Staff Recommends the City Commission approve Option 1

Based on the existing conditions, the Planning Department recommends **approval** to the City Commission for the proposed **Easement 1** with conditions as follows:

1. The City may unilaterally terminate the easement upon a finding of public purpose by a vote of the Key West City Commission.
2. That the owner shall pay the yearly fee of \$400.00 specified in the Code of Ordinances Section 2-938.
3. That the easement shall terminate upon the failure of the property owner to maintain liability insurance in a minimum amount of two hundred thousand dollars per person and three hundred thousand per occurrence (or such other amount as may be legislatively determined to be the maximum extend 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 encroachment if the yearly fee required by the Code of Ordinances is not paid.
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