

EXECUTIVE SUMMARY



To: Bogdan Vitas, City Manager
Through: Donald Leland Craig, AICP, Planning Director
From: Kevin Bond, AICP, LEED Green Associate, Planner II
Meeting Date: April 1, 2014

RE: **Easement - 600 Duval Street (RE # 00012660-000000, AK # 1013030)** – A request for an easement in order to maintain an existing second floor balcony that extends into the Duval 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 Code of Ordinances of the City of Key West, Florida

ACTION STATEMENT:

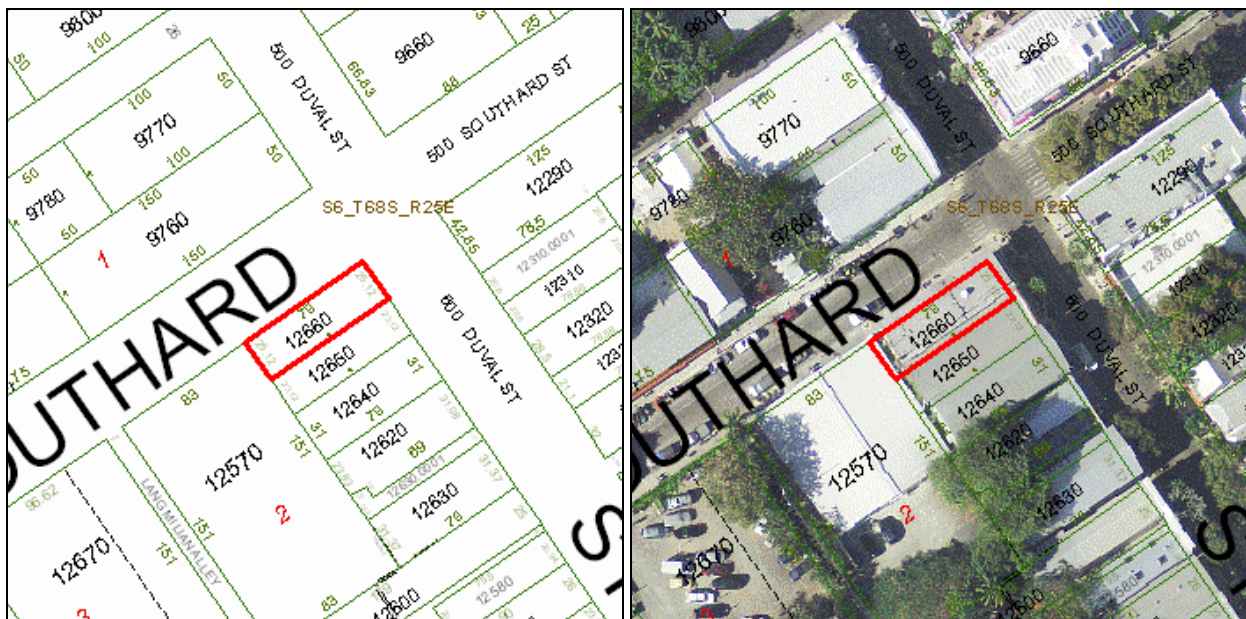
Request: To grant an easement of approximately 109 square feet within City right-of-way abutting the property.

Applicant: Jennifer Reed, Key West Trim-Works, Inc.

Property Owner: 600 Duval Street, L.C.

Location: 600 Duval Street (RE # 00012660-000000, AK # 1013030)

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



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 second floor balcony that extends over the sidewalk within the Duval Street right-of-way, as shown on the attached specific purpose survey. The building is a contributing structure in the historic district. Although the building has been remodeled and renovated over time, historic photos confirm the original balcony’s existence since the 1930s. Sanborn maps as early as 1912 indicate a balcony.

The owner applied for a building permit and a certificate of appropriateness to make repairs to the balcony. As is City policy, the owner is required to obtain an easement in order to maintain the location of the existing balcony within City property. The easement is attached as part of the proposed Resolution.

City Actions:

Development Review Committee:
City Commission:

September 26, 2013
April 1, 2014

PLANNING STAFF ANALYSIS:

The existing balcony projects 4.4 feet into the Duval Street right-of-way and is 24.6 feet wide along the front of the building as described in the Specific Purpose Survey prepared by Frederick H. Hildebrandt of Island Surveying, Inc. dated October 15, 2013. The area of the requested easement is 109 square feet, more or less.

The existing balcony does not impede public passage on the City sidewalk. The bottom of the proposed balcony is higher than the eight (8)-foot clearance required for any part of a building encroaching over City right-of-way. However, a portion of supporting beams under the proposed balcony would be less than eight (8) feet above the sidewalk (see the attached plans). Staff recommends that if the easement is granted, the owner must revise the plans to provide the full eight (8) feet of vertical clearance from the sidewalk as a condition of approval.

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 109 square feet, more or less, 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. Prior to the issuance of a building permit, the owner shall revise the plans to provide the full eight (8) feet of vertical clearance from the sidewalk to the bottom of the balcony including supporting beams.
2. The easement shall terminate upon the replacement of the structure.
3. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.

4. The owner shall pay the annual fee of \$400.00 specified in Code Section 2-938(b).
5. 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.
6. 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.
7. The existing balcony shall be the total allowed construction within the easement area.
8. The easement area shall not be used in site size calculations such as lot, yard, and bulk calculations for site development.
9. 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. However, there would continue to be liability concerns by allowing the encroachment into City property to continue without 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.