

To: Jim Scholl, City Manager

Through: Thaddeus Cohen, Planning Director

From: Patrick Wright, Planner II

Meeting Date: May 5, 2015

RE: Easement – 100 Geraldine Street -717 Fort Street (RE # 00013980-000101, AK # 9102040, RE # 00013980-000100, AK # 8950041) – A request for an easement in order to maintain a portion of an existing residential structure and roof over hangs that extend a total of 141 ± square feet into the Fort Street and Geraldine Street rights-of-way as well as an adjacent city owned lot on property located within the Historic Medium Density Residential (HMDR) zoning district pursuant to Section 2-938 of the Code of Ordinances of the City of Key West, Florida.

ACTION STATEMENT:

<u>Request:</u>	A request for an easement in order to maintain a portion of an existing single family home and roof over hangs that extend a total of 141 ± square feet into the Fort Street and Geraldine Street rights-of-way.
<u>Applicant:</u>	Geraldine and Fort Homeowners Association Inc.
<u>Property Owner:</u>	KW Properties, LLC and Davis Park Hunter
<u>Location:</u>	100 Geraldine Street – 717 Fort Street (RE # 00013980-000101, AK # 9102040, RE # 00013980-000100, AK # 8950041)
<u>Zoning:</u>	Historic Medium Density Residential (HMDR)



BACKGROUND:

The property is located at the southeast corner of Geraldine Street and Fort Street. The property contains two separate parcels combined through a Homeowners Association. The two parcels contain two separate single family homes that are non-contributing to the historic district. In June of 1999 two separate easements were granted to the previous property owners. At this time 717 Fort Street was considered part of a property known as 100 Geraldine Street. The two easements granted for front, rear and side property encroachments totaled in 86.4 square feet. These encroachments were located in the Fort and Geraldine rights-of-way as well as the neighboring lot owned by the city. In January of 2002 these easements were revoked for failure to pay the annual fees.

The applicant is requesting an easement pursuant to Section 2-938 of the Code of Ordinances of the City of Key West. The request is for four (4) separate encroachments referred to in the specific purpose survey as Parcels A, B, C, and D. Parcel A is an existing roof overhang that encroaches a total of 16 square feet into the Geraldine Street right of way. Parcels B and C are two separate roof overhang encroachments into the Fort Street right-of-way totaling in 87 square feet. Parcel D contains a portion of a one story residential structure that encroaches into the neighboring City owned lot for a total of 38 square feet. The total of the encroachments in the Fort and Geraldine rights-of-way as well as the neighboring city owned lot are 141 ± square feet.

City Actions:

Development Review Committee:

March 26, 2015

City Commission:

May 5, 2015

PLANNING STAFF ANALYSIS:

As described in the Specific Purpose Survey prepared by J. Lynn O'Flynn, Inc. dated February 5, 2015, the request is for four (4) separate encroachments referred to in the specific purpose survey as Parcels A, B, C, and D. Parcel A is an existing roof overhang that encroaches a total of 16 square feet into the Geraldine Street right of way. Parcels B and C are two separate roof overhang encroachments into the Fort Street right-of-way totaling in 87 square feet. Parcel D contains a portion of a one story residential structure that encroaches into the neighboring City owned lot for a total of 38 square feet. The total of the encroachments in the Fort and Geraldine rights-of-way as well as the neighboring city owned lot are 141 ± square feet.

The encroachment does not impede public passage on City sidewalks.

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 applicant shall become current with the annual fees since the time that easement was revoked in January of 2002. The fees assessed at the time were \$300.00 for the side and rear encroachments and \$200.00 for the front encroachment. The sum of the total fees due is \$6,500.00.
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. 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
7. 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.
8. 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.
9. 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.
10. The existing roof overhangs and a portion of the one story residential structure shall be the total allowed construction within the easement area.
11. The easement area shall not be used in site size calculations such as lot, yard, and bulk calculations for site development.
12. 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.