

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 - 533 Eaton Street (RE # 00004130-000000, AK # 1004294) –**
A request for an easement in order to maintain an existing concrete roof overhang that extends into the Eaton and Simonton Street rights-of-way on property located within the Historic Neighborhood Commercial District – Truman/Simonton (HNC-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 of approximately 279.2 square feet within City right-of-way abutting the property.

Applicant: Trepanier & Associates, Inc.

Property Owner: The Studios of Key West, Inc.

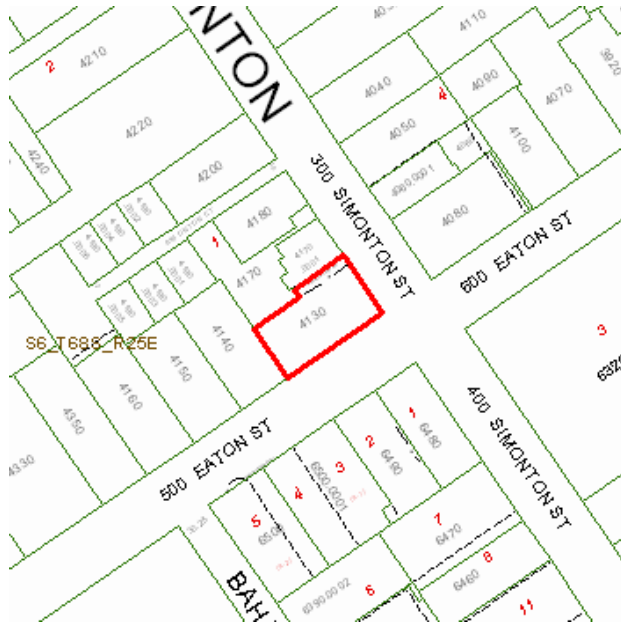
Location: 533 Eaton Street (RE # 00004130-000000, AK # 1004294)

Zoning: Historic Neighborhood Commercial – Truman/Simonton (HNC-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 roof overhang between the first and second floors of the building that extends over the sidewalks within the Eaton and Simonton Street rights-of-way, as shown on the attached specific purpose survey. The overhang wraps around the building façade of the corner property. The building is a contributing structure in the historic district. Built circa 1950 as a Scottish Rite Temple and Masonic Lodge, the balcony is an original component of building (see attached historic photos).

The owner applied for major development plan/conditional use, a height variance and an alcohol sales special exception in order to adaptively reuse the building into new art studio classrooms, offices and exhibition spaces. As is City policy, the owner is required to obtain an easement in order to maintain the location of the existing roof overhangs that encroach into City property. The easement is attached as part of the proposed Resolution.



City Actions:

Development Review Committee:

January 23, 2014

City Commission:

April 1, 2014

PLANNING STAFF ANALYSIS:

The existing roof overhangs project up to three (3) feet into City right-of-way, 63.37 feet wide along the Eaton Street façade and 48.12 feet wide along the Simonton Street façade, as described in the Specific Purpose Survey prepared by Frederick H. Hildebrandt of Island Surveying, Inc. dated January 6, 2014. The area of the requested easement is 279.2 square feet, more or less.

The existing roof overhangs do not impede public passage on the City sidewalk. The bottom of the overhangs is higher than the eight (8)-foot clearance required for any part of a building encroaching over City right-of-way.

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 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. 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 roof overhangs shall be the 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 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.