

EXECUTIVE SUMMARY



To: Greg Veliz, City Manager

Through: Roy Bishop, Planning Director

From: Angela Budde, Planner I

Meeting Date: December 3, 2019

RE: **Easement – 1200 Whitehead Street (RE # 00026390-000000)** – A request for an easement of approximately 766.0 square feet, more or less, on the Catherine Street right-of-way in order to maintain an existing block wall, a fence, a portion of a one-story concrete structure and a fenced in wall area 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 766.0 square feet, more or less, within City right-of-way abutting the property.

Applicant: Richard McChesney, Spottswood, Spottswood, Spottswood & Sterling

Property Owner: Calanda Holdings, LLC

Location: 1200 Whitehead Street (RE # 00026390-000000)

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 a total of 766.0 square feet, more or less, along the property line on Catherine Street to maintain the existing encroachments of a block wall, a fence, a portion of a one-story concrete structure, and a fenced in wall area, as shown on the attached specific purpose survey dated October 30, 2019. The principal structure is listed as historic and contributing to the Key West historic district, built circa 1889. The current owners acquired the property in April of 2019.

City Actions:

Development Review Committee:	September 26, 2019
City Commission Meeting:	December 3, 2019

PLANNING STAFF ANALYSIS:

As described in the Specific Purpose Survey drawn by J. Lynn O’Flynn, Inc., dated August 4, 2019, the area of the easement request is for 766.00 square feet, more or less. During the Development Review process, members of the Committee had no comments regarding the existing encroachments.

A site visit was conducted on October 8. The encroachment does not impede public passage on the City sidewalks.

If the request for the 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 the 766.0 square feet, more or less, of city property pursuant to Code Section 2-938(b)(3). 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 766.0 square feet on the Catherine Street right-of-way in order to maintain the existing encroachments of a block wall, a fence, a portion of a one-story concrete structure, and a fenced in wall area with the following conditions:
1. The easement shall terminate upon the removal of the structures.
 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)(3).
 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. Prior to the easement becoming effective, the Owner shall obtain Certificate of General Liability insurance that extends coverage to the property that is governed by this easement with limits of no less than 1,000,000.00. Coverage must be provided by an insurer authorized to conduct business in the State of Florida and with terms and conditions consistent with the latest version of the Insurance Service Office’s (ISO) latest filed Commercial General Liability form. Owners shall furnish an original Certificate of Insurance indicating, and

such policy providing coverage to, City of Key West named as “Additional Insured”.

6. The easement area shall not be used in site size calculations such as lot, yard, and bulk calculations for site development.
7. The City reserves the right to construct surface or sub-surface improvements within the easement area.
8. The area to maintain the existing encroachments of a block wall, a fence, a portion of a one-story concrete structure, and a fenced in wall area shall be the total allowed within the easement area.
9. To the fullest extent permitted by law, the Owner expressly agrees to indemnify and hold harmless the City of Key West, their respective officers, directors, agents and employees (herein called the "indemnitees") from any and all liability for damage.

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 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 proposed Resolution granting the requested easement with the conditions as outlined above.