

EXECUTIVE SUMMARY



To: Jim Scholl, City Manager
Through: Patrick Wright, Planning Director
From: Angela Budde, Planner I
Meeting Date: July 16, 2019

RE: **Easement – 403-405 Caroline Street (RE # 00001610-000000)** – A request for an easement that extends a total of 180.0 square feet, more or less, to address the encroachment of existing historic second-story balcony in order to maintain an overhang onto the Whitehead Street right-of-way for a property located within the Historic Residential/Office (HRO) 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 for a total of 180.0 square feet, more or less, on the Whitehead Street right-of-way.

Applicant: Trepanier & Associates, Inc.

Property Owners: Valsin Marmillion & Juan Pisani

Location: 403-405 Caroline Street (RE # 00001610-000000)

Zoning: Historic Residential/Office (HRO) zoning district



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 180.0 square feet, more or less, to address the encroachment of an existing historic second-story balcony in order to maintain an overhang onto the Whitehead Street right-of-way, as shown on the attached specific purpose survey dated April 4, 2019. The second-story balcony is part of the original construction as evidenced by the 1977 Monroe County Property Appraiser property card.

City Actions:

Development Review Committee:

May 23, 2019

PLANNING STAFF ANALYSIS:

As described in the Specific Purpose Survey drawn by Island Surveying Inc., dated April 4, 2019, the area of the easement request is for a total of 180.0 square feet, more or less, on the Whitehead Street right-of-ways.

If the request for the easement over City-owned land is granted, then the Owners would be required to pay an annual fee of \$400.00 to the City for the use 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 for a total of 180.0 square feet, more or less, onto the Whitehead Street right-of-way in order to address the encroachment of existing historic second-story balcony in order to maintain an overhang, with the following conditions:

1. Prior to the easement becoming effective, the Grantees shall obtain Commercial General Liability insurance that extends coverage to the property that is governed by this easement with limits of no less than 300,000.00. 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. Grantees shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as "Additional Insured".
2. The easement shall terminate upon the removal of the second-story balcony.
3. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
4. The Owners shall pay the annual fee of \$400.00 specified in Code Section 2-938(b) (3).
5. The Owners 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 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. To the fullest extent permitted by law, the Grantees 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.

RECOMMENDATION:

Option 1.

Based on the existing conditions, the Planning Department recommends to the City Commission **APPROVAL** of the easement request for a total of 180.0 square feet, more or less, onto the Whitehead Street right-of-ways in order to address the encroachment of a historic second-story balcony overhang with the conditions listed above.

Option 2.

Deny the easement request with the following conditions:

1. The Owners 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-ways 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.