

EXECUTIVE SUMMARY



To: Jim Scholl, City Manager

Through: Donald Leland Craig, AICP, Planning Director

From: Kevin Bond, AICP, LEED Green Associate, Planner II

Meeting Date: August 5, 2014

RE: **Easement – 500 Duval Street (RE # 00009850-000000, AK # 1010111)**
– A request for easement to maintain the existing awning and cornice extending into the Duval Street and Fleming Street rights-of-way adjacent to 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:

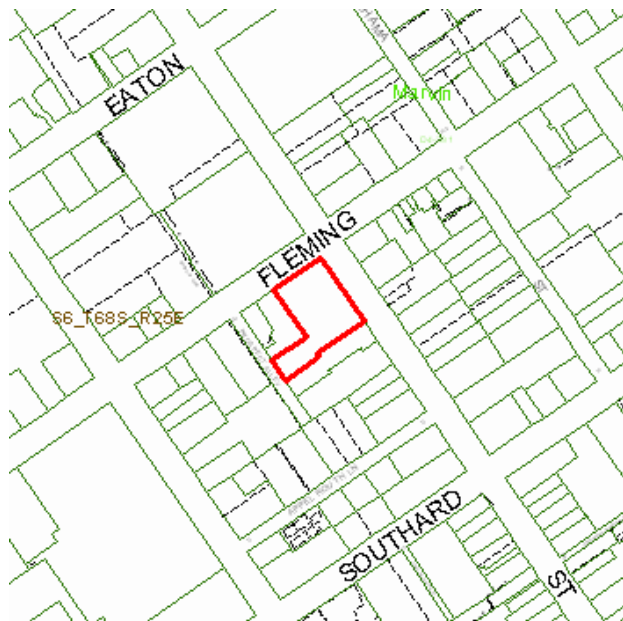
Request: To grant an easement of approximately 1,639 square feet within City right-of-way abutting the property.

Applicant: Seth Neal, Pike Architects, Inc.

Property Owner: Old Kress Building Company, Inc.

Location: 500 Duval Street (RE # 00009850-000000, AK # 1010111)

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 metal awning that extends over the sidewalk within the Duval Street right-of-way and a portion of the Fleming Street right-of-way, as shown on the attached specific purpose survey. A small portion of the building’s rooftop cornice also extends into the rights-of-way. The commercial building, built in 1918, is a contributing structure in the Key West Historic District. Both historic photos and Sanborn maps confirm that the awning and cornice are both original elements of the historic building.

In April 2014, the owner applied for a setback variance in order to construct an exterior stair for secondary emergency egress from the third floor of the building. In June 2014, the Planning Board approved Resolution No. 2014-36 granting with conditions the variance request. One of the conditions of approval required the owner to obtain an easement for the existing building awning and cornice encroachments into City rights-of-way, prior to issuance of any building permits for the egress stairway. The easement is attached as part of the proposed Resolution.

City Actions:

Development Review Committee: June 5, 2014
City Commission: August 5, 2014

PLANNING STAFF ANALYSIS:

The existing metal awning projects 9.2 feet into the Duval Street right-of-way and runs over 137 feet along the front of the building, turns the corner, and runs over 19 feet along Fleming Street, as described in the Specific Purpose Survey prepared by Frederick H. Hildebrandt of Island Surveying, Inc. dated May 20, 2014. The existing rooftop cornice (labeled “overhead eave” on the survey) projects two feet into the Fleming Street right-of-way along a distance of 84.2 feet. The total area of the requested easement is 1,639.2 square feet, more or less.

The existing awning does not impede public passage on the City sidewalks. The awning is well over the minimum eight (8)-foot clearance required for any part of a building encroaching over City right-of-way. A structural analysis on the awning was performed by an engineer and found that, while repairs are needed to maintain it, the awning is in good condition.

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 1,639.2 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.

The City Building Official Ron Wampler requested the Applicant submit a structural analysis to ensure that the awning does not pose a hazard to public safety. The attached canopy inspection report dated July 1, 2014 and prepared by Thomas E. Cheever, Professional Engineer, identifies some needed repairs, but otherwise finds that the awning “poses no foreseeable risk of imminent collapse based upon personal observations and historical use.” Based on the report, the Building Official recommended some conditions of approval, as listed in the options below.

Options / Advantages / Disadvantages:

Option 1. Approve the easement with the following conditions:

1. Based on the Canopy Inspection Report dated July 1, 2014 by Thomas E. Cheever, P.E., prior to final execution of the easement agreement by the City, the property owner shall:
 - a. Replace any missing hardware on the awning and shutters. All hardware shall be inspected and serviced. Hardware shall be added to ensure public safety during storm conditions. This shall include hardware necessary to secure the storm shutter panels if the property owner intends to keep the shutters functional.
 - b. Remove all debris on top of the awning.
 - c. Waterproof the awning to remain serviceable.
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 awning and cornice 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.