

EXECUTIVE SUMMARY



To: Patti McLauchlin, City Manager

From: Katie P. Halloran, Planning Director

Meeting Date: February 15, 2022

RE: **Easement – 927 Catherine Street (RE# 00031710-000000)** – A request for an easement agreement for an existing encroachment of two hundred fifty-eight (258) square feet of principal structure, covered porch, and concrete pad within City Right-of-Way in the Historic Medium Density Residential (HMDR) zoning district pursuant to Section 2-938(b)(3) of the Code of Ordinances of the City of Key West, Florida.

ACTION STATEMENT:

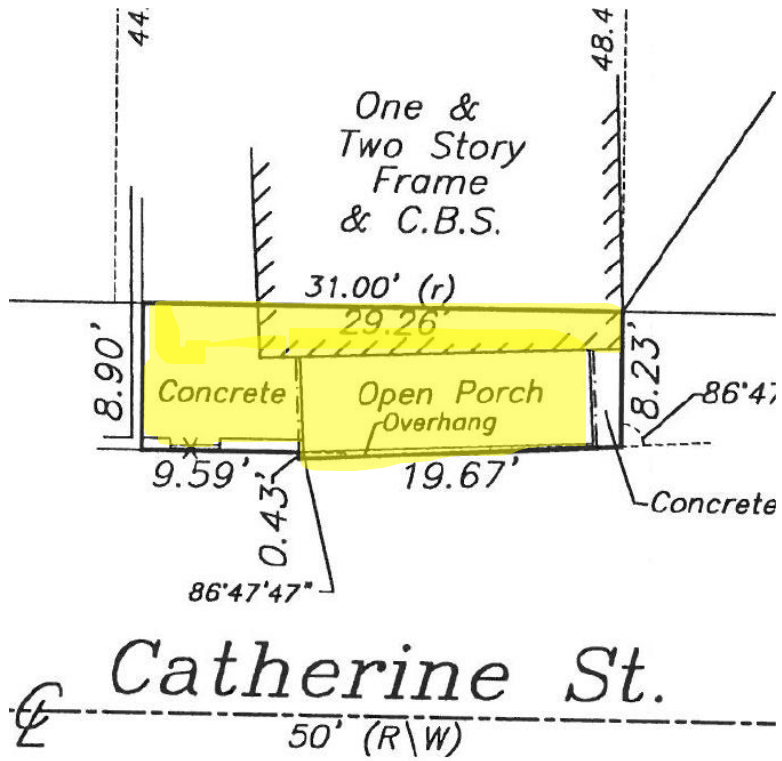
Request: To grant an easement for an existing two hundred fifty-eight (258) square feet of principal structure, covered porch, and concrete pad that extends onto the Catherine Street right-of-way.

Applicant: AV Law PLLC

Property Owners: Daniel DelPercio

Location: 927 Catherine Street (RE # 00031710-000000)

Zoning: Historic Medium Density Residential (HMDR)



927 Catherine Street

BACKGROUND:

This is a request for an easement pursuant to Section 2-938 (b) (3) of the Code of Ordinances of the City of Key West. The easement request is for a total of two hundred fifty-eight (258) square feet, more or less, including a portion of the principal structure, the covered porch, and a portion of the existing concrete pad on the Catherine Street right-of-way as shown on the attached specific purpose survey. The one-story single family residential structure is a historic building located within the Key West Historic District and was built circa 1906.



Undated Photo – 927 Catherine Street

City Actions:

Development Review Committee:

October 28, 2021

City Commission:

December 7, 2021 (Postponed)

City Commission:

January 4, 2022 (Postponed)



927 Catherine Street

PLANNING STAFF ANALYSIS:

As described in the Specific Purpose Survey drawn by J. Lynn O’Flynn, P.S.M. of J. Lynn O’Flynn, Inc., dated August 13, 2021, the area of the easement request is for a total of two hundred fifty-eight (258) square feet more or less. The existing encroachment does not impede public passage.

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 two hundred fifty-eight (258) square feet, more or less, of city property pursuant to Code Section 2-938(b)(3). The annual fee would be pro-rated based on the effective date of the easement.

Options / Advantages / Disadvantages:

Option 1. Approve the easement request of approximately two hundred fifty-eight (258) square feet on the Catherine Street right-of-way in order to maintain a portion of the principal structure, the covered porch, and a portion of a concrete pad with the following conditions:

1. The easement shall terminate upon the removal of the 258 square feet, more or less, of portions of the principal structure, covered porch, and concrete pad on the Catherine Street right-of-way.
2. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
3. The Grantee shall pay the annual fee of \$400.00 specified in Code Section 2-938(b)(3).
4. The Grantee 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 Owners shall obtain Homeowner or Personal 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 Homeowner or Personal 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" or "Additional Interest".
6. The easement areas 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 areas.
8. The subject area includes two hundred fifty-eight (258) square feet, more or less, of a portion of the principal structure, the covered porch, and a portion of the concrete pad on the Catherine Street right-of-way and shall be the total allowed within the easement area.
9. To the fullest extent permitted by law, the Grantee 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 damages.

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.

Consistency with the City's Strategic Plan, Vision and Mission: Granting the requested easement would not be inconsistent with the City of Key West Comprehensive Plan or Strategic Plan.

Financial Impact: The City would collect \$400.00 annually as part of the approval of the requested 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 Comprehensive Plan or 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 and would not be covered with appropriate insurance