

EXECUTIVE SUMMARY



To: Patti McLauchlin, City Manager

Through: Katie P. Halloran, Planning Director

From: Kathryn Lyon, AICP, CFM

Meeting Date: April 5, 2022

RE: Easement – 1200 Whitehead Street (RE# 00026390-000000) - A request for an easement granted at the property in order to install brick pavers on City Right-of-Way in the Historic High Density Residential (HHDR) zoning district pursuant to Section 2-938(b)(3) of the Code of Ordinances of the City of Key West, Florida.

ACTION STATEMENT:

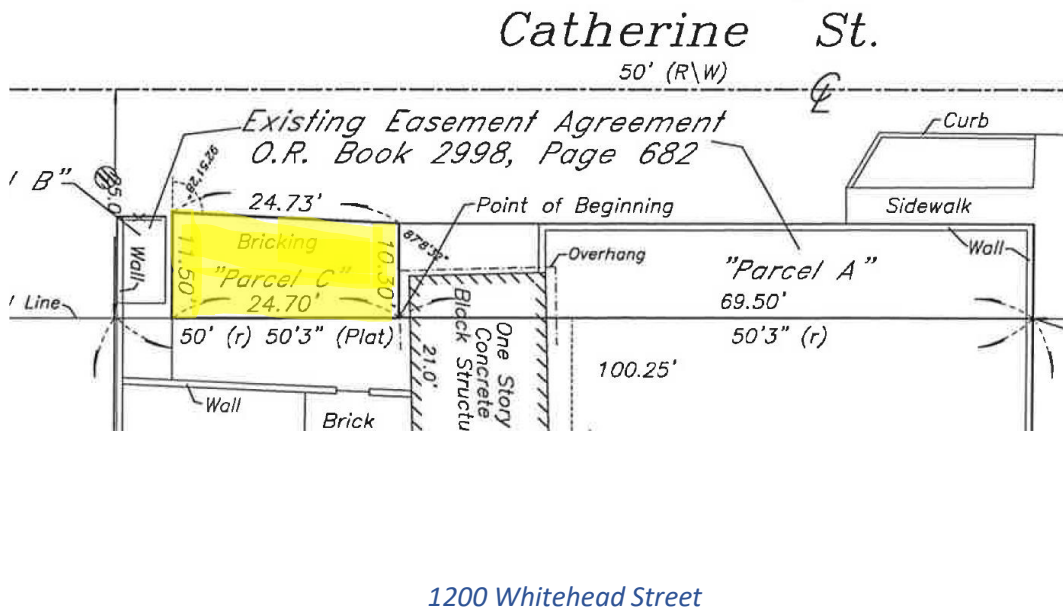
Request: To grant an easement in order to install brick pavers onto the Catherine Street right-of-way 270 square feet, more or less.

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

Property Owners: Michael Freytag

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

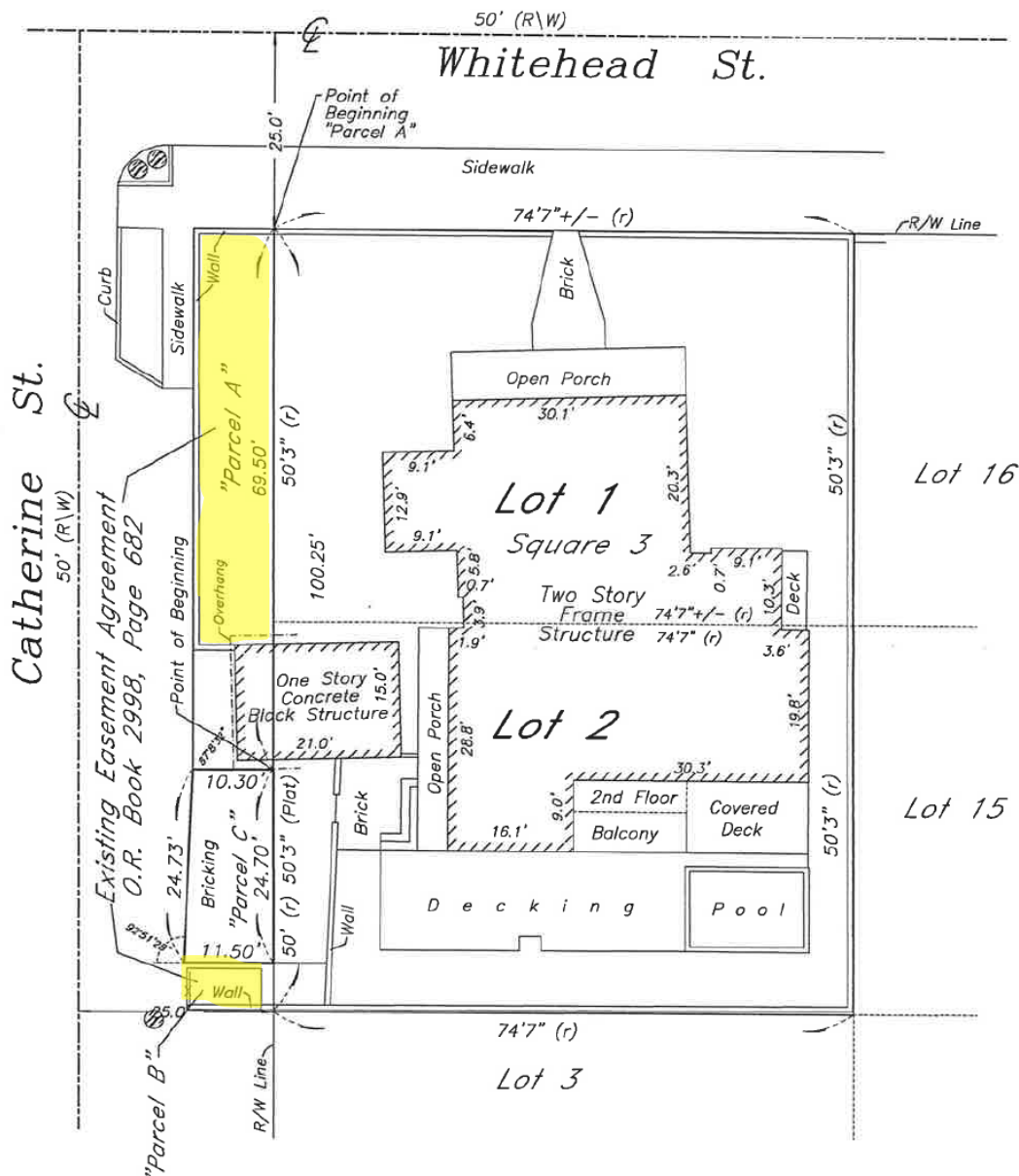
Zoning: Historic High Density Residential (HHDR)



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 270 square feet, more or less, to place brick pavers onto the Catherine Street right-of-way as shown on the attached specific purpose survey. The easement area extends approximately 11.50 feet onto the Catherine Street right-of-way and is approximately 24.73 feet in length containing 270 square feet, more or less. The two-story structure is a historic building located within the Key West Historic District and was built circa 1948.

In 2019, the former property owner obtained an easement from the City for 766 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 that are located on City right-of-way. This easement is recorded in OR Book 2998, Page 682. The existing easement area is depicted below.



Undated Photo – 1200 Whitehead Street



Undated Photo – 1200 Whitehead Street

City Actions:

Development Review Committee:

City Commission:

September 23, 2021

Postponed November 16, 2021 to
December 7, 2021

Postponed December 7, 2021 to January
4, 2022

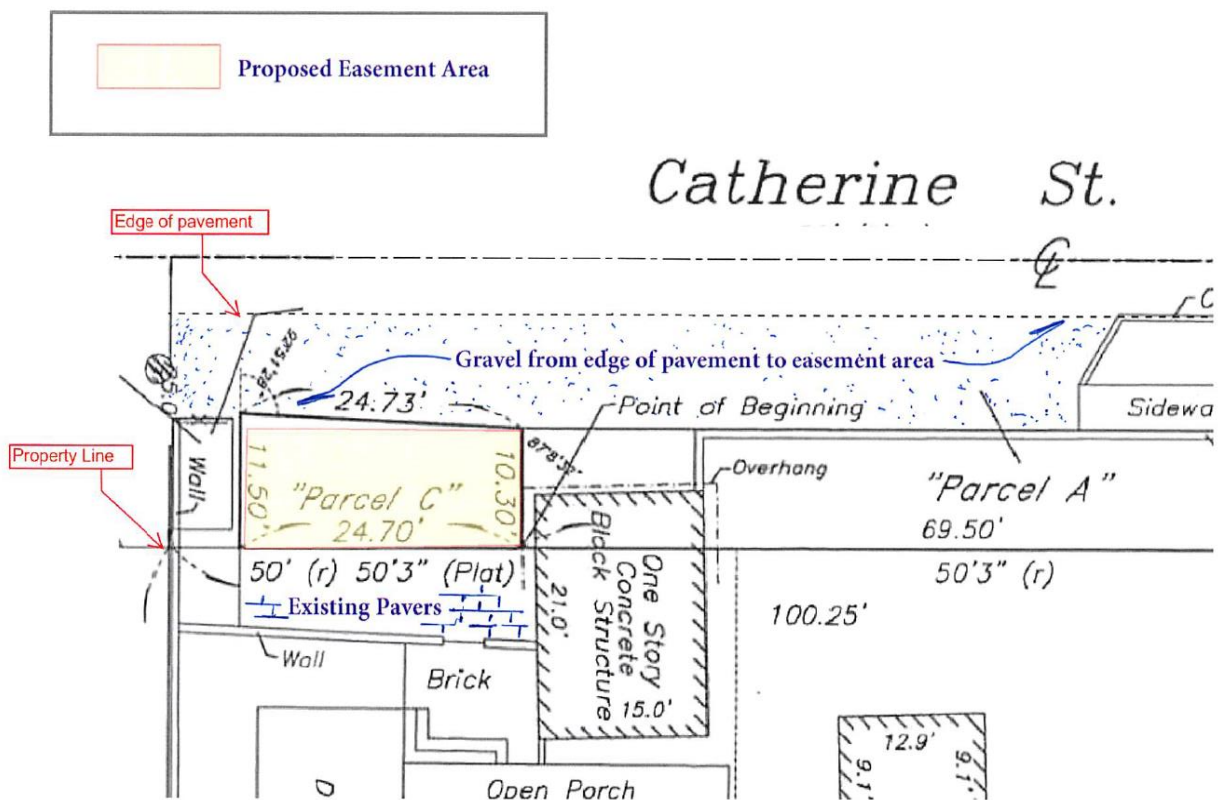
Postponed January 4, 2022 - Indefinite

April 5, 2022

PLANNING STAFF ANALYSIS:

As described in the Specific Purpose Survey drawn by J. Lynn O'Flynn of J. Lynn O'Flynn, Inc., dated August 23, 2021, the area of the easement request is for a total of 270 square feet more or less. The encroachment does not impede public passage.

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 270 square feet, more or less, to place brick pavers onto the Catherine Street right-of-way as shown on the attached specific purpose survey. The easement area extends approximately 11.50 feet onto the Catherine Street right-of-way and is approximately 24.73 feet in length containing 270 square feet, more or less. The two-story structure is a historic building located within the Key West Historic District and was built circa 1948.



If the request for the easement over City owned land is granted, the Owners would be required to pay a separate annual fee of \$400.00 to the City for use of 270 square feet, more or less, of city property pursuant to Code Section 2-938(b)(3). The annual fee would be pro-rated on the effective date of the easement.

Options / Advantages / Disadvantages:

Option 1. Approve the easement request of approximately 270 square feet on the Catherine Street right-of-way in order to place brick pavers with the following conditions:

1. The easement shall terminate upon the removal of the brick pavers.
2. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
3. The Owners shall pay the annual fee of \$400.00 specified in Code Section 2-938(b)(3).
4. The Owners shall irrevocably appoint the City Manager as its agent to permit the removal of the encroachments 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 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 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 areas to maintain include 270 square feet, more or less, of brick pavers onto Catherine Street shall be the total allowed within the easement area.
9. To the fullest extent permitted by law, the Owners 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.

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 conditions as outlined above.

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 requested easement.