

EXECUTIVE SUMMARY

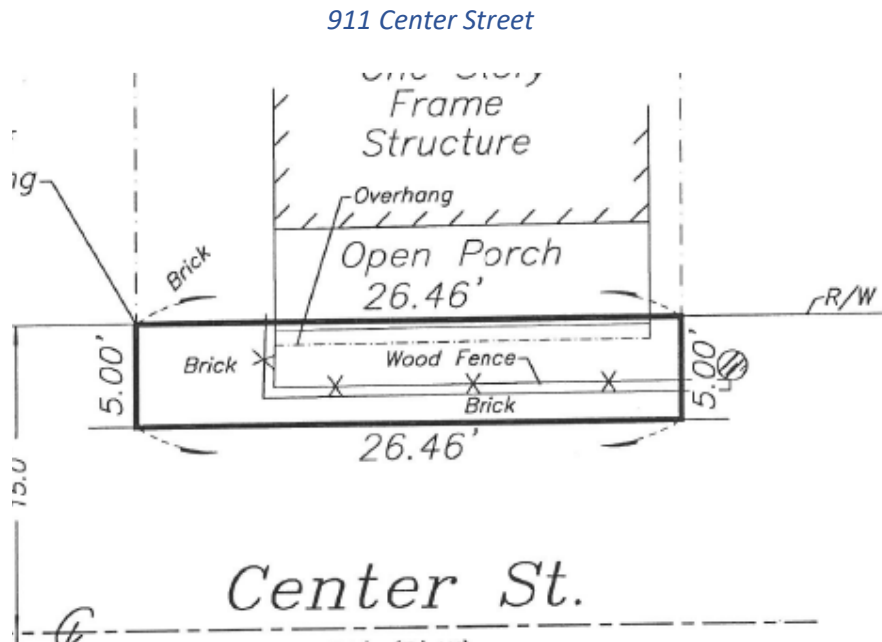


To: Patti McLauchlin, City Manager
Through: Katie P. Halloran, Planning Director
From: Kathryn Lyon, AICP, CFM
Meeting Date: April 5, 2022

RE: Easement - 911 Center Street (RE# 00017490-000000) - A request for an Easement Agreement for an existing encroachment totaling 132.3 square feet, more or less, to include an overhang, a portion of open porch and pavers on City Right-of-Way in the Historic Neighborhood Commercial (HNC-1) zoning district pursuant to Section 2-938(b) (3) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida; Providing fees and conditions; Providing for an effective date.

ACTION STATEMENT:

Request: To grant an easement that extends onto the Center Street right-of-way 132.3 square feet, more or less.
Applicant: Bruce and Diane Buckbee
Property Owners: 911 Center Street, LLC
Location: 911 Center Street (RE # 00017490-000000)
Zoning: Historic Neighborhood Commercial (HNC-1)



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 132.3 square feet, more or less, onto the Center 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 1918.



1965 Photo – 911 Center Street

City Actions:

Development Review Committee:

October 28, 2021

City Commission:

April 5, 2022



911 Center 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 11, 2021, the area of the easement request is for a total of 132.3 square feet more or less. The existing encroachment does not impede public passage.

Staff worked closely with the property owner to identify a compromise given the owner’s concern to protect his property (front porch) and the City’s concern about the need for parking in the Center Street public right of way. The fence shall be removed. The coconut palms shall remain, and the City will be responsible for maintenance. The property owner may add additional plantings between the house and palm trees once an updated landscape plan is approved.

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 132.3 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 132.3 square feet on the Center Street right-of-way with the following conditions:

1. The fence shall be removed.
2. The coconut palms shall remain, and the City will be responsible for maintenance.
3. The property owner may add additional plantings between the house and palm trees once an updated landscape plan is approved.
4. The easement shall terminate upon the removal of the overhang, open porch, and pavers.
5. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
6. The Owners shall pay the annual fee of \$400.00 specified in Code Section 2-938(b)(3).
7. 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.
8. Prior to the easement becoming effective, the Owners shall obtain Homeowner or Personal 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 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".
9. The easement areas shall not be used in site size calculations such as lot, yard, and bulk calculations for site development.
10. The City reserves the right to construct surface or sub-surface improvements within the easement areas.
11. The areas to maintain include 132.3 square feet, more or less, of overhang, open porch, and pavers onto Center Street shall be the total allowed within the easement area.
12. 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.

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.

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.