MEMORANDUM

Date: June 4th, 2025

To: Honorable Mayor and Commissioners

Via: Brian L. Barroso
City Manager

From: Katie P. Halloran
Planning Director

Subject: **Request for an Easement Agreement at 724 Olivia Street (RE # 00020350-000000)**

Introduction

The subject application involves a request for an easement of approximately 26 square feet to maintain the existing encroachments on the City right-of-way of a historic home. The property located at 724 Olivia Street is currently improved with a two-story residential structure within the Historic Medium Density Residential District. The City Commission is authorized to consider the granting of an easement pursuant to Chapter 2 (Administration), Article VIII (City Property) Division 3 (Real Property Disposition).

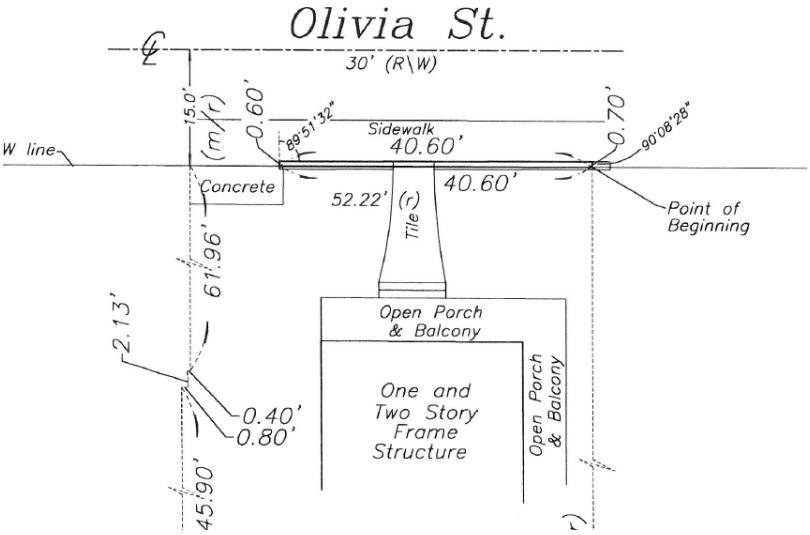
Sec. 2-938 (Easements) states, in part, that the "*City may grant an easement over any lands or interest therein owned by the city or any city agency*." According to Sec. 2-938 (b), "*If the City grants an applicant's request for easement over any lands owned by the city or any city agency, the applicant shall pay an annual fee to the city. The annual fee shall be prorated based on the effective date of the easement*."

Background

The subject concrete and picket fence extends approximately half a foot into the right of way. As a structural improvement, the fence requires approval of an easement from the City Commission.

This easement request was reviewed at a publicly held Development Review Committee hearing on April 27th, 2025. There were no concerns from other departments.

Survey:



Property Image:

Procurement

If the request for the easement over City-owned land is granted, the Grantee shall be required to pay an annual fee to the City consistent with the below provisions contained in Sec. 2-938:

(b) If the city grants an applicant's request for easement over any lands owned by the city or any city agency, the applicant shall pay an annual fee to the city. The annual fee shall be prorated based on the effective date of the easement. The applicant shall pay the fee each subsequent year the easement is in effect, as follows:

1) Each easement granted by the city for the use of less than 20 square feet of city property, $200.00.
2) Each easement granted by the city for the use of 20 square feet to 100 square feet of city property, $300.00.
3) Each easement granted by the city for the use of more than 100 square feet of property, $400.00.

Recommendation

The Planning Department recommends **approval** of the proposed easement agreement with the following conditions:

General Conditions:

1. The Easement shall terminate if the fence is enlarged, reconstructed, or replaced beyond the materials and three-dimensional footprint described herein.
2. Ordinary repair and maintenance shall be permitted.
3. A reconstructed fence shall be erected in the same materials and three-dimensional footprint as contemplated in this easement after a review for consistency by the Planning Department.
4. Grantee agrees that the improvements located on the Easement shall not be enlarged or expanded beyond what is approved herein.
5. The Easement shall allow for the existing encroachments as depicted on the survey prepared by J. Lynn O'Flynn of J. Lynn O'Flynn, Inc dated February 5th, 2025, and a total easement area of 26 square feet as depicted on the survey prepared by J. Lynn O'Flynn of J. Lynn O'Flynn, Inc dated February 5th, 2025. Additional or future easement area shall require an amendment in accordance with Sec. 2-938 of the City Code.
6. Any and all fencing shall be subject to the review and approval of the City of Key West Historic Architectural Review Commission (HARC) consistent with HARC Guidelines.
7. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
8. The Grantee shall pay the annual fee as specified in Section 2-938(b)(2) of the City Code.
9. 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.
10. Prior to the easement becoming effective, the Owners 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" or "Additional Interest".
11. The easement areas shall not be used in site size calculations such as lot, yard, and bulk calculations for site development.

12. The City reserves the right to construct surface or sub-surface improvements within the City owned easement areas.
13. The City reserves the right of entry/re-entry for the easement areas for the purposes of inspection, maintenance, improvements, and operations in connection with City owned/leased property.
14. 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 caused by or resulting from the Grantee’s improvement in the easement area.