MEMORANDUM

Date: September 3, 2026

To: Honorable Mayor and Commissioners

Via: Brian L. Barroso
City Manager

CC: Patrick Wright, Growth Management Director
Taylor Brown, City Planner

From: James Singelyn
Senior Planner

Subject: **Request for an Easement Agreement at 518 Fleming Street (RE# 00009520-000000). File # 2026-0004**

Introduction

The purpose of the requested easement is to memorialize the continued maintenance of an existing second-story balcony and a portion of an existing building encroaching into the City of Key West right-of-way along Fleming Street and Bahama Street, involving approximately 167.20 square feet of City-owned right-of-way, at a property located in the Historic Residential Commercial Core-1 (HRCC-1) zoning district. The requested easement of the second story balcony which encroaches the air space above the public right of way by 30'5" and the Northwesterly corner of the building which encroaches the public right of way by 0'7".

The City Commission is authorized to consider the granting of such an easement pursuant to Chapter 2 (Administration), Article VIII (City Property), Division 3 (Real Property Disposition) of the Code of Ordinances. 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*

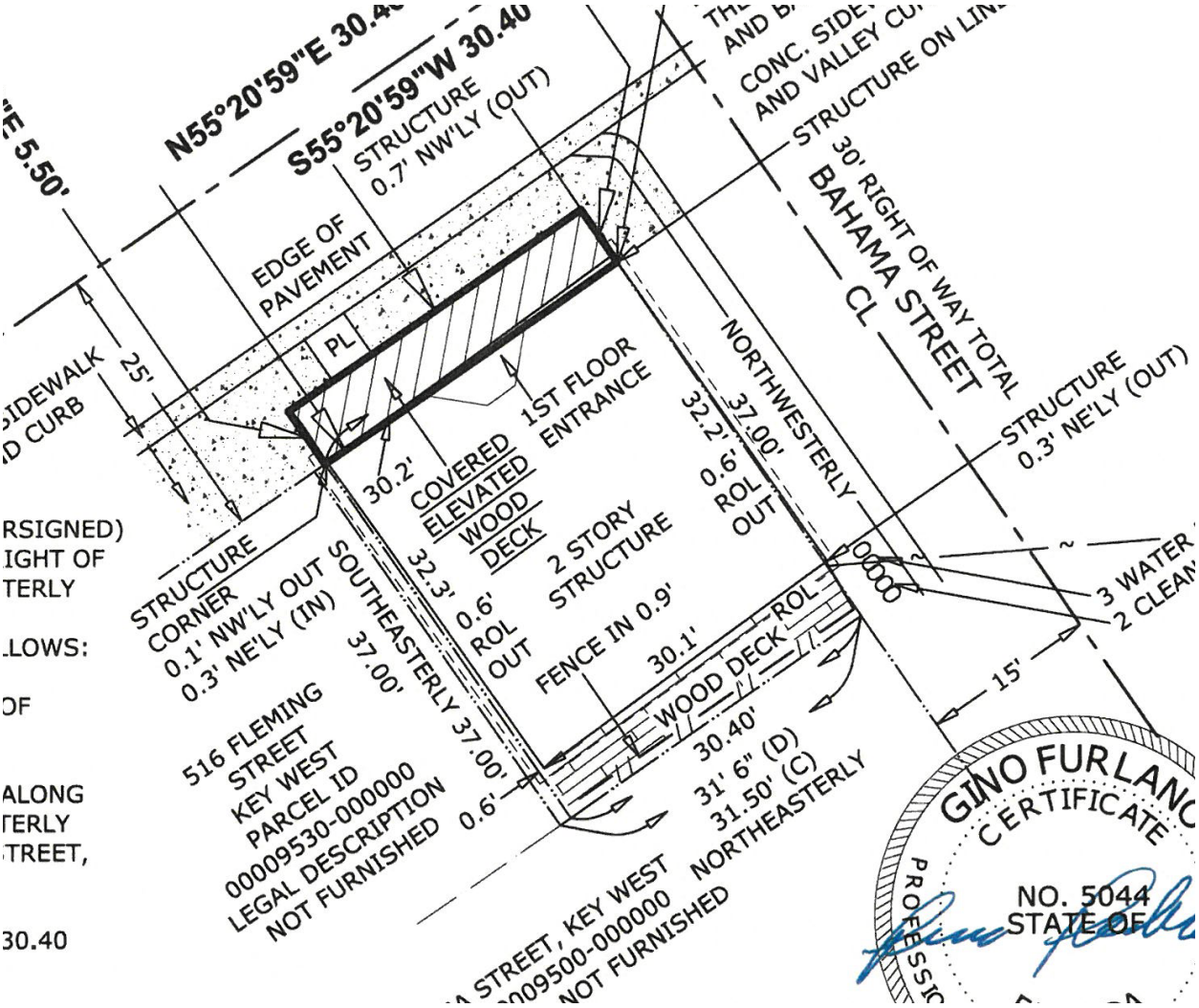
the city or any city agency, the applicant shall pay an annual fee to the city. The annual fee shall be prorated based on the effective date of the easement."

Background

The subject building's balcony encroaches approximately 167.20 square feet into the City's right-of-way.

This easement request was reviewed at a publicly held Development Review Committee meeting on July 23, 2026. No objections or concerns were raised by reviewing departments.

Site Specific Survey:



Property Image:

Financial Impacts

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:

If the city grants an applicant's request for easement over any land 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 subject to the following conditions:

General Conditions:

1. Ordinary repair and maintenance shall be permitted.
2. This easement does not authorize any increase in the degree of encroachment or any additional improvements within the right-of-way.
3. The easement shall be limited to the existing encroachment area totaling 167.20 square feet as depicted on the survey prepared by Reece and Associates dated June 21, 2026. Additional or future easement area shall require an amendment in accordance with Sec. 2-938 of the City Code.
4. The City may unilaterally terminate the easement, upon a finding of public purpose by vote of the Key West City Commission.
5. The Grantee shall pay the annual fee as specified in Section 2-938(b)(3) of the City Code.
6. 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.
7. 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”.
8. The easement areas 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 or sub-surface improvements within the City owned easement areas.
10. 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.
11. 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.