

EXECUTIVE SUMMARY



To: Greg Veliz, City Manager

Through: Roy Bishop, Planning Director

From: Angela Budde, Planner I

Meeting Date: February 19, 2020

RE: **Easement – 528 Front Street (RE # 00000310-000000)** – A request for an Easement in order to maintain the encroachment of an existing overhang, accessible ramp, and a retaining wall that extend 656.0-square feet, more or less, onto the Front Street right-of-way on a property located within the Historic Residential Commercial Core (HRCC-1) Zoning District at 528 Front Street, Key West, Florida (RE# 00000310-000000); Pursuant to Section 2-938 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:

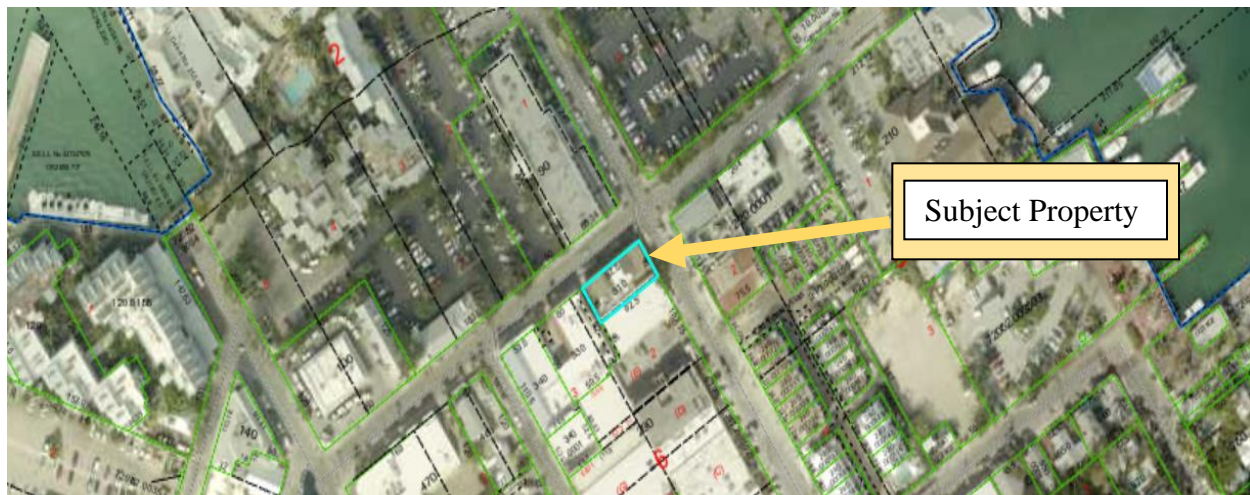
Request: To grant an easement to maintain the encroachment of an existing overhang, accessible ramp, and retaining wall that extend 656.0-square feet, more or less, onto the Front Street right-of-way.

Applicant: Gregory S. Oropeza, ESQ. of Oropeza, Stones & Cardenas, PLLC

Property Owners: 528 Front Street Key West, Inc.

Location: 528 Front Street (RE # 00000310-000000)

Zoning: Historic Residential Commercial Core (HRCC-1) zoning district



BACKGROUND:

This is a request for an easement pursuant to Section 2-938 of the Code of Ordinances (the “Code”) of the City of Key West (the “City”). The Property Owners seek an easement of approximately 656.0-square feet, more or less, for the purpose of maintaining the existing overhang, accessible ramp and a retaining wall that extend beyond the property line to the existing concrete curb within City right-of-way, as shown on the attached specific purpose survey. The overhang, retaining wall and accessible ramp are associated with the former Rum Barrel building at 528 Front Street. The building was constructed in 1953 and is a non-contributing structure in the Key West Historic District. Modifications were made to the building and property site in 2004 and 2005, resulting in Resolution 05-104 granted by the Board of Adjustment (BOA), approving variances to the parcel. The current owners acquired the property in July of 2019 and applied for an easement to maintain the existing encroachments not previously addressed. There are no active code violations against the property.

**CITY ACTIONS:**

Development Review Committee:
Development Review Committee:
City Commission:

November 21, 2019 (Postponed by Staff)
December 19, 2019
February 19, 2020

PLANNING STAFF ANALYSIS:

As described in the Specific Purpose Survey drawn by J. Lynn O'Flynn, Inc., dated August 23, 2019 and revised on November 19, 2019, the area of the easement request is for a total of 656.0-square feet, more or less, on the Front Street right-of-way.

A site visit was conducted on January 21, 2020. The overhang, accessible ramp, and retaining wall do not impede public passage. There are no other encroachments within the proposed easement area, other than an existing two lamp posts and concrete curb previously installed by the City within the right-of-way.

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 656.0-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 agreement request of approximately 656.0-square feet on the Front Street right-of-way in order to maintain the existing encroachment of an overhang, retaining wall and accessible ramp with the following conditions:

1. The easement agreement shall terminate upon the removal of the structure.
2. The Owners shall maintain the vegetative plantings along the sidewalk/retaining wall/accessible ramp area.
3. The City may unilaterally terminate the easement agreement upon a finding of public purpose by vote of the Key West City Commission.
4. The Owners shall pay the annual fee of \$400.00 specified in Code Section 2-938(b)(3).
5. The Owners shall irrevocably appoint the City Manager as its agent to permit the removal of the encroachment and termination of the easement agreement if the annual fee required by the Code of Ordinances is not paid.
6. Prior to the easement becoming effective, the Owners shall obtain Commercial General Certificate of Liability insurance that extend coverage to the property that is governed by this easement with limits of no less than 1,000,000.00. 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. The Owners shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as "Additional Insured". The Owners shall provide proof of Insurance annually upon payment of annual fee.
7. The easement agreement shall terminate upon the failure of the property owners to maintain liability insurance.
8. The easement area 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 easement area.

10. The area to maintain the encroachment of an existing overhang, accessible ramp and retaining wall onto the City right-of-way shall be the total allowed within the easement area.
11. 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 damage.
12. Structural inspection of the overhang is performed annually.

Financial Impact: The City would collect \$400.00 annually as part of the approval of the requested easement agreement.

Option 2.

Deny the easement request with the following conditions:

1. The Owners 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.

Financial Impact: There would be no cost to the City for denying the easement agreement. 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 agreement with conditions as outlined above.