

EXECUTIVE SUMMARY



To: Gregory W. Veliz, City Manager
Through: Katie P. Halloran, Planning Director
From: Angela Budde, Planner I
Meeting Date: June 16, 2020

RE: **Easement Agreement – 312 Catherine Street (RE # 00026430-000100)**
– A request for an Easement Agreement in order to maintain the existing boundary fence encroaching 530.0-square feet, more or less, onto the Catherine Street right-of-way on property located within the Historic High Density Residential (HHDR) Zoning District at 312 Catherine Street, Key West, Florida (RE# 00026430-000100); 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:

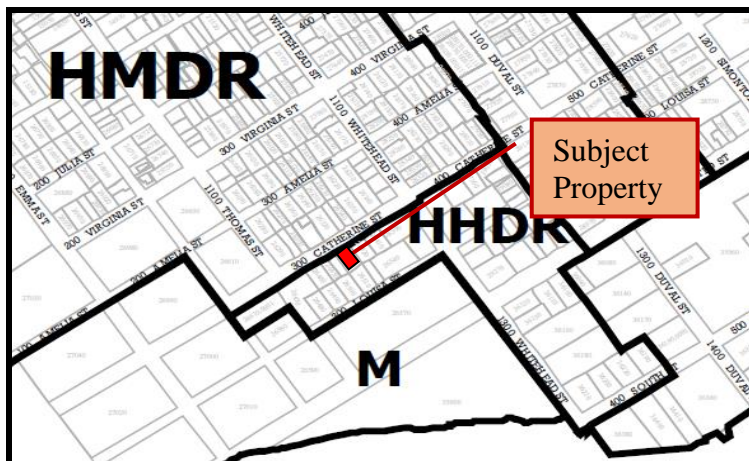
Request: To grant an easement agreement to maintain the existing boundary fence encroachment that extends 530.0 square feet, more or less, onto the Catherine Street right-of-way.

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

Property Owners: Brian Koziel and Jennifer Hansen

Location: 312 Catherine Street (RE # 00026430-000100)

Zoning: Historic High Density Residential (HHDR) zoning district



City of Key West Zoning Map



Google Earth Aerial image

BACKGROUND:

This is a request for an easement agreement pursuant to Section 2-938 of the Code of Ordinances of the City of Key West. The easement agreement request is for a total of 530.0-square feet, more or less, to maintain the existing encroachment of the boundary fence that extends onto the Catherine Street right-of-way, as shown on the specific purpose survey provided. The property is a contributing structure within the Key West historic district, built circa 1938. The current owner acquired the property in February of 2020.



Photo contributed by City of Key West Planning staff

City Actions:

Development Review Committee:
City Commission:

April 23, 2020
June 16, 2020

PLANNING STAFF ANALYSIS:

As described in the Specific Purpose Survey drawn by J. Lynn O’Flynn, Inc., dated February 18, 2020, the area of the easement agreement request is for a total of 530.0 square feet, more or less, on the Catherine Street right-of-way.

A site visit was conducted on April 23, 2020. The encroachment does not impede public passage.

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 530.0 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 / Financial Impact:

Option 1. Approve the easement request of approximately 530.0-square feet, more or less, on the Catherine Street right-of-way in order to maintain the existing boundary fence encroachment with the following conditions:

1. The easement shall terminate upon the removal of the structure.
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 encroachment if the annual fee required by the Code of Ordinances is not paid.
5. Prior to the easement becoming effective, the Owners shall obtain 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 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.
6. The easement area 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 area.
8. The area to maintain the existing encroachment of the boundary fence 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 damage.
10. Structural inspection of the boundary fence shall be 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 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.

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, Planning Staff recommends to the City Commission **APPROVAL** of the proposed Resolution granting the requested easement agreement with conditions as outlined above.