

EXECUTIVE SUMMARY



To: Gregory W. Veliz, City Manager

Through: Katie P. Halloran, Planning Director

From: Angela Budde, Planner

Meeting Date: June 16, 2020

RE: **Easement Agreement- 413 Greene Street (RE # 00000620-000000)** – A request for an easement agreement in order to repair and maintain three (3) existing second-floor balconies that extend onto the Greene Street and Fitzpatrick rights-of-way on property located within the Historic Residential Commercial Core – Duval Street Gulfside (HRCC-1) Zoning District pursuant to Section 2-938 of the Code of Ordinances of the City of Key West, Florida

ACTION STATEMENT:

Request: To grant an easement agreement for a combined total of 171.0-square feet, more or less, for three (3) existing balconies within the City’s rights-of-way abutting property.

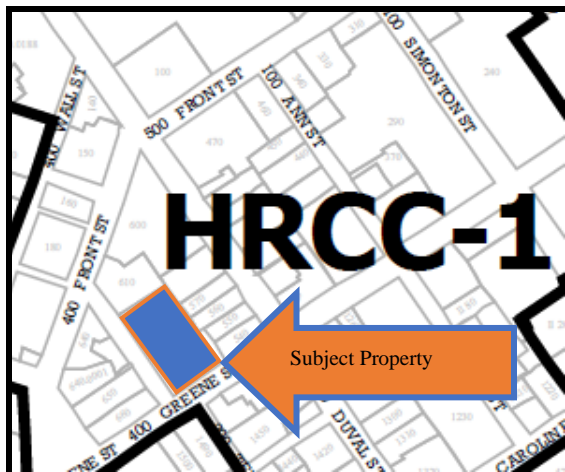
Applicant: M. Christina Ruiz, 107 Fitzpatrick Street, Key West, Florida.

Property Owner: Robert Lopez, New Ideas, Inc., 107 Fitzpatrick Street, Key West, Florida

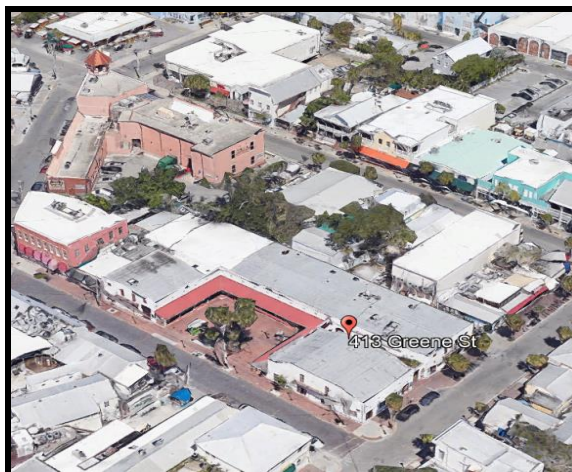
Location: 413 Greene Street (RE # 00000620-000000)

Zoning: Historic Residential Commercial Core – Duval Street Gulfside (HRCC-1)

BACKGROUND:



City of Key West Zoning Map



Google Earth image of parcel

This is a request for an easement agreement pursuant to Section 2-938 of the Code of Ordinances (the “Code”) of the City of Key West (the “City”). The easement agreement request is for three (3)

existing second-floor balconies encroaching over the sidewalk within the Greene Street and Fitzpatrick rights-of-way, as shown on the specific purpose survey provided. The building was constructed in the late 1970's and the balconies appear to be part of the original construction. The building is non-contributing structure to the Key West historic district (see image).



Photo contributed by Monroe County Library

City Actions:

Development Review Committee:

April 23, 2020

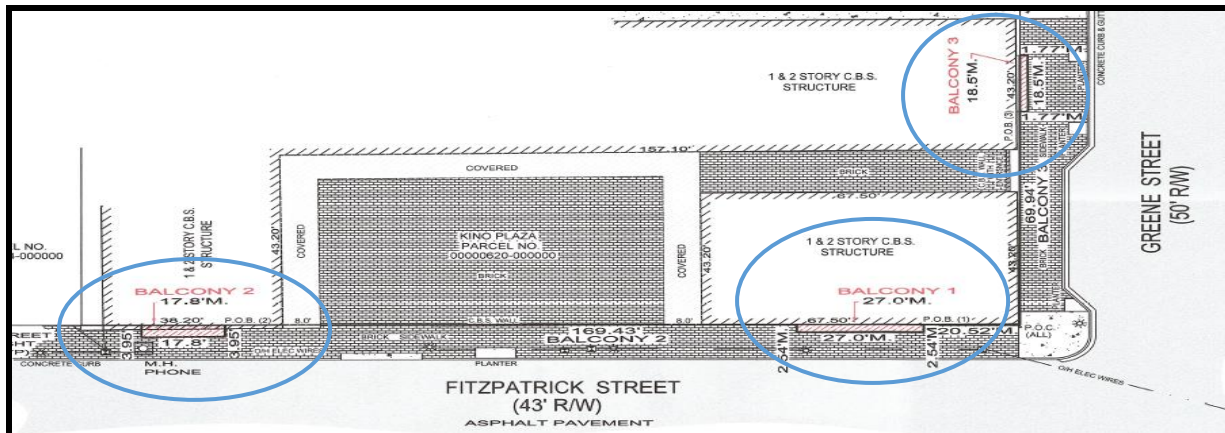
City Commission:

June 16, 2020

PLANNING STAFF ANALYSIS:

Comments were received from the Fire Marshal's office during the Development Review Committee (DRC) meeting on April 23, 2020 stating the balconies shall be structurally sound in case of an emergency allowing for ingress (and egress).

The existing balcony identified on the survey map (see image below) as Balcony 3 projects into Greene Street right-of-way 1.77-feet and is 18.5-feet wide along the front of the building. The existing balcony identified on the survey map as Balcony 1 projects 2.54-feet into the Fitzpatrick Street right-of-way and is 27.0-feet wide along the side of the building closest to the Greene and Fitzpatrick Streets intersection. The existing balcony identified on the survey map as Balcony 2 projects 3.95-feet into Fitzpatrick Street right-of-way and is 17.8-feet wide along the side of the building closest to Fitzpatrick and Front Streets intersection.



Eddie A. Martinez-February 14, 2020 portion of survey map

The area of the requested easement is for a combined total 171.0-square feet, more or less, as described in the Specific Purpose Survey prepared by Eddie A. Martinez of Monroe County Surveying & Mapping, Inc. dated February 14, 2020.

A site visit was conducted on May 9, 2020. The encroachments do not impede public passage.



Photo contributed by Planning Staff - Balcony 3 as identified on survey map on Greene St.

Photo contributed by Planning Staff- Balcony 1 as identified on survey map on Fitzpatrick St.

Photo contributed by Planning Staff- Balcony 2 as identified on survey map on Fitzpatrick St.

The existing balconies do not impede public passage on the City sidewalk. The bottoms of the existing three (3) balconies are higher than the eight (8)-foot clearance required for any part of a building encroaching over City's rights-of-way.

If the request for an easement agreement over City-owned land is granted, then the owner would be required to pay an annual fee of \$400.00 to the City for the use of 171.0-square feet, more or less, of city property pursuant to Code Section 2-938(b)(3). The annual fee would be prorated based on the effective date of the easement agreement.

Options / Financial Impact:

Option 1. Approve the easement agreement with the following conditions:

1. The easement shall terminate upon the replacement of the structures.
2. The City may unilaterally terminate the easement upon a finding of public purpose by vote of the Key West City Commission.
3. The owner shall pay the annual fee of \$400.00 specified in Code Section 2-938(b)(3).
4. The owner 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. The easement shall terminate upon the failure of the property owner to maintain Commercial liability insurance in a minimum amount of \$1,000,000.00 per incident (or such other amount as may legislatively be determined to be the maximum extent of sovereign immunity waiver, naming the City as an additional insured for that portion of real property which is the subject of this easement.
6. The area to repair and maintain the existing three (3) balconies onto Greene Street and Fitzpatrick Street rights-of-way shall be the total allowed within the easement area.
7. The easement area shall not be used in site size calculations such as lot, yard, and bulk calculations for site development.
8. The City reserves the right to construct surface improvements within the easement area.

9. The three (3) balconies shall be repaired to Florida Building Code requirements, certified by a licensed design professional, and shall be structurally sound allowing for ingress and egress.
10. Structural inspection of the three (3) balconies shall be performed annually.

Financial Impact: The City would collect \$400.00 annually as part of the approval of the easement. There would be no cost to the City for granting the easement.

Option 2. Deny the easement based on findings that the City's needs outweigh the request.

Financial Impact: There would be no cost to the City for denying the easement. However, there would continue to be liability concerns by allowing the encroachment into City property to continue without the easement.

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.