

EXECUTIVE SUMMARY



To: Greg Veliz, City Manager

Through: Katie P. Halloran, Planning Director

From: Melissa Paul-Leto, Planner I

Meeting Date: December 2, 2020

RE: **Easement – 900 Southard Street (RE # 00011260-000000)** – A request for an Easement Agreement to maintain an existing second floor covered balcony, and a second floor frame structure over the Southard and Margaret Streets Right-of-Ways approximately 687.57 square feet, more or less, located within the Historic High Density Residential (HHDR) Zoning District pursuant to Section 2-938(b)(3) of the Code of Ordinances of the City of Key West, Florida.

ACTION STATEMENT:

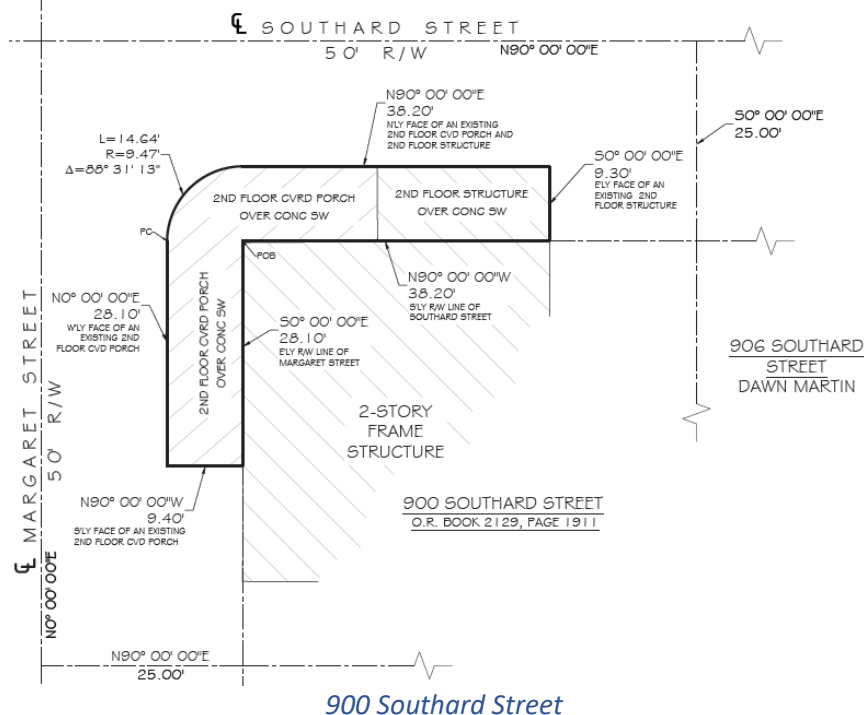
Request: To grant an easement in order to maintain a second-floor covered balcony, and a second-floor frame structure that extends onto the Southard and Margaret Streets right-of-way 687.57 square feet, more or less.

Applicant: Heather G. Barnes

Property Owners: Eight, LLC, dba Mangia Mangia

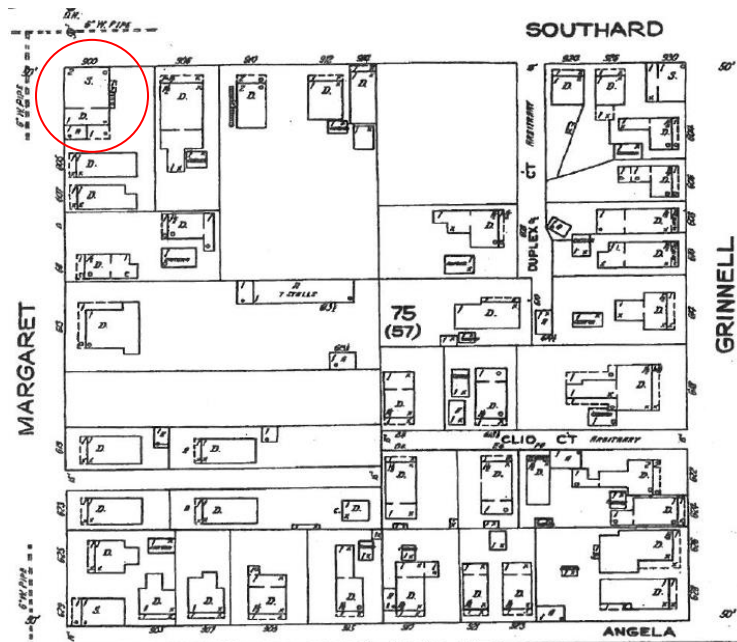
Location: 900 Southard Street (RE # 00011260-000000)

Zoning: Historic High Density Residential (HHDR) Zoning District

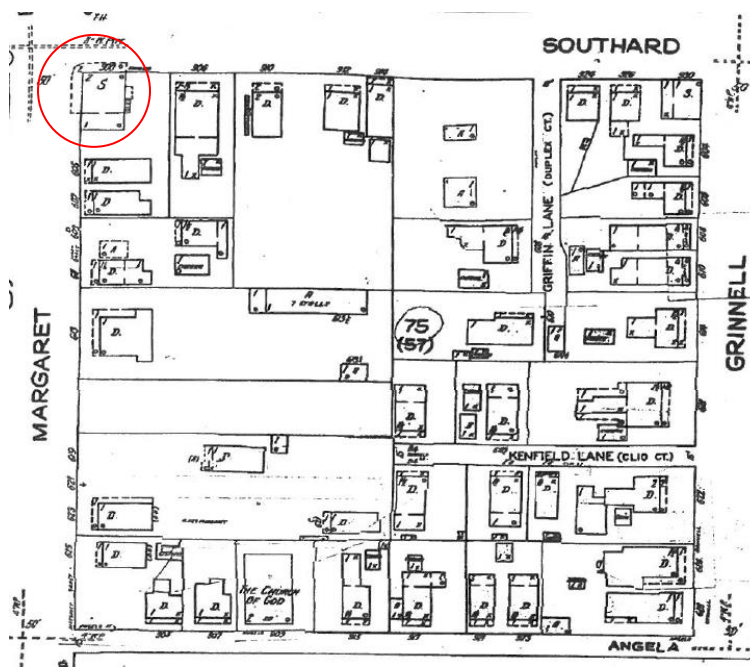


BACKGROUND:

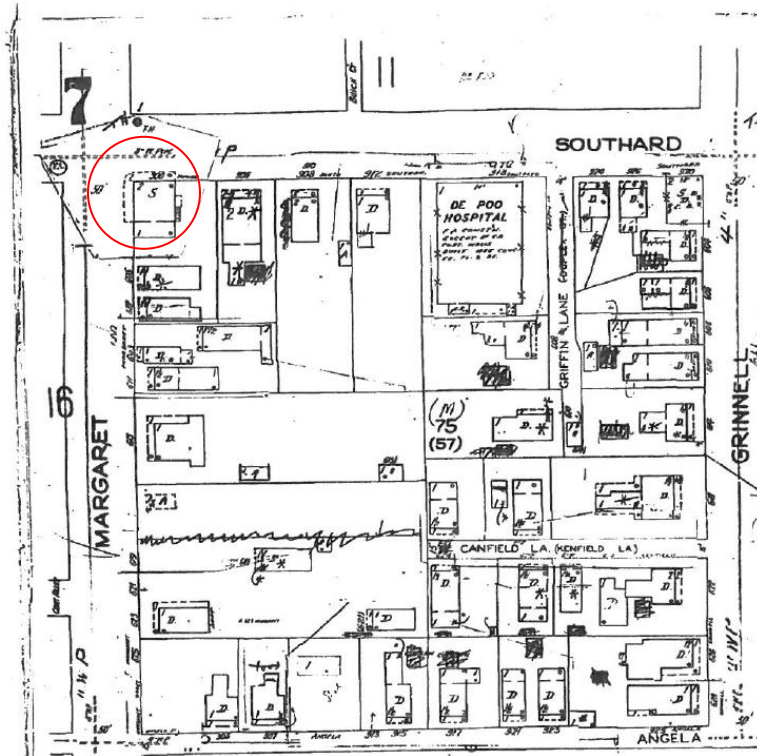
This is a request for an easement pursuant to Section 2-938 (b)(3) of the Code of Ordinances of the City of Key West. The easement request is for a total of 687.57 square feet, more or less, to maintain a second-floor covered balcony, and a second floor two story frame structure that encroaches onto the Southard and Margaret Streets rights-of-way as shown on the attached specific purpose survey. The two-story structure is a historic, contributing building in the Key West Historic District and was built between circa 1912-1926. Per HARC staff: The balconies are not original to the building. However, they are considered to be contributing.



1926 Sanborn Map – No Encroachment



1948 Sanborn Map – Encroachment is shown



1962 Sanborn Map – Encroachment is shown

City Actions:

Development Review Committee:

October 22, 2020

City Commission:

December 2, 2020

PLANNING STAFF ANALYSIS:

As described in the Specific Purpose Surveys drawn by Eric A. Isaacs, P.S. of Florida Keys Land Surveying, dated September 9, 2020, the area of the easement request is for a total of 687.57 square feet more or less.

A site visit was conducted on October 21, 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 687.57 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 request of approximately 687.57 square feet on the Southard Street right-of-way in order to maintain the two-story covered balconies and portion of the second story structure with the following conditions:

1. The easement shall terminate upon the removal of the second-floor covered balcony and a second floor two story frame 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 encroachments if the annual fee required by the Code of Ordinances is not paid.
5. 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 \$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. Grantees shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as "Additional Insured".
6. The easement areas 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 areas.
8. The areas to maintain a portion of the second-floor covered balcony, and the second floor two story frame structure onto Southard and Margaret Streets 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.

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 with conditions as outlined above.

Consistency with the City's Strategic Plan, Vision and Mission: Granting the requested easement would not be inconsistent with the Strategic Plan.

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

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.

Consistency with the City's Strategic Plan, Vision and Mission: Denial of the requested easement would not be inconsistent with the Strategic Plan.

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.