



THE CITY OF KEY WEST PLANNING BOARD  
Staff Report

**To:** Chairman and Planning Board Members

**Through:** Katie P. Halloran, Planning Director

**From:** Kimberly Barua, AICP, The Corradino Group

**Meeting Date:** November 17, 2022

**Agenda Item:** **Transfer of a Transient Unit License** – A request to transfer one (1) transient unit license to a property located at 430 Fleming Street (RE# 00009850-000000) the receiver site. The receiver site is located within the Historic Residential Commercial Core- 1 (HRCC-1) zoning district. The sender site license is located at 529 Eaton Street (RE# 00004140-000000). The sender site is located within the Historic Neighborhood Commercial Truman/Simonton (HNC-1) zoning district, pursuant to Sections 122-1342 and 122-1339 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**Request:** This request for the transfer of one transient unit license will allow the existing penthouse residential unit at the receiver site to be rented on a transient basis. The receiver site is known locally as the Kress Building and located within the Historic Residential Commercial Core - 1 zoning district.

**Property Owners/  
Applicants:** The Studios of Key West, Inc.- Jed Dodds and The Old Kress Building Company, Inc. – Billy Spottswood

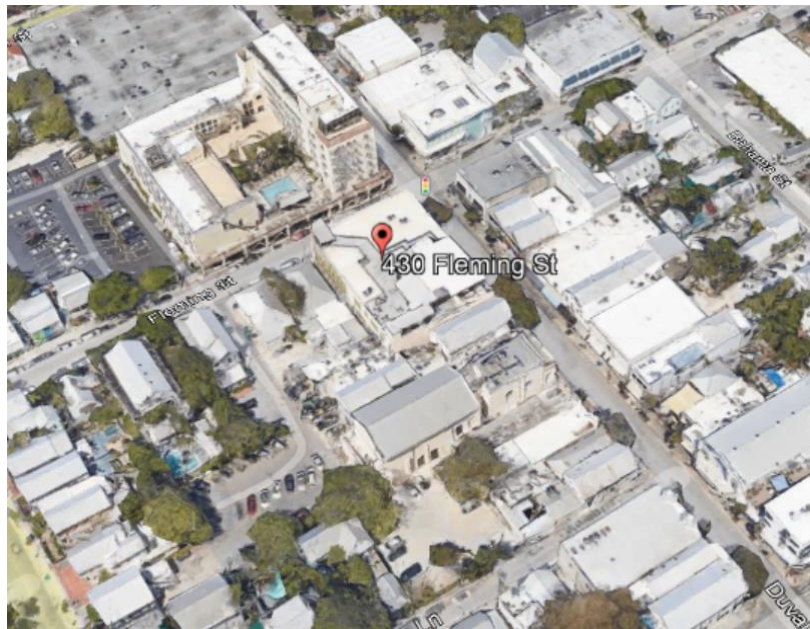
**Location:** 430 Fleming Street (RE# 00009850-000000) and 529 Eaton Street (RE# 00004140-000000)

**Zoning:** Historic Residential Commercial Core – 1 (HRCC-1) and Historic Neighborhood Commercial- 1 (HNC-1)

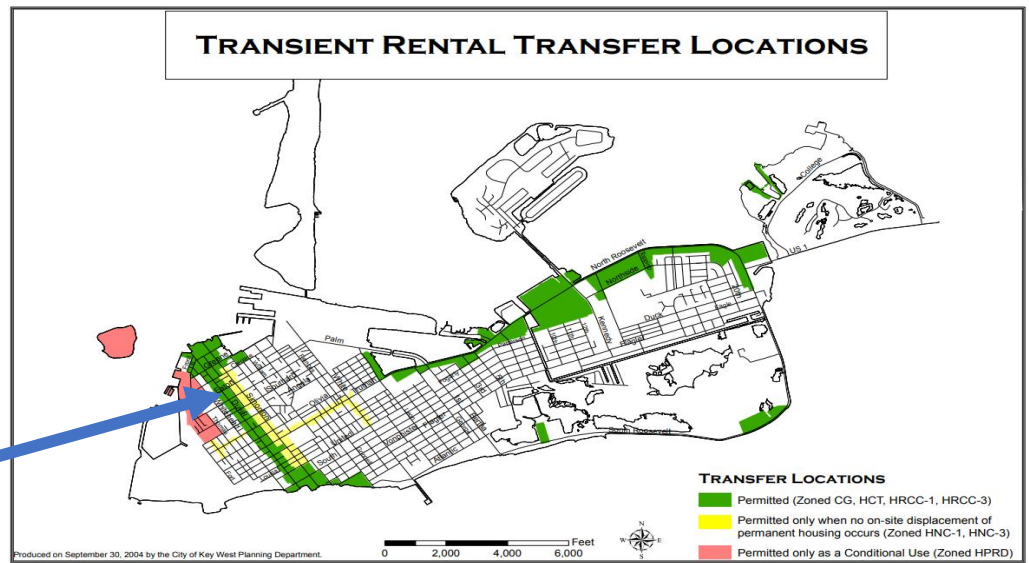
**Entrance from Fleming Street:**



Street View of Receiver Site



Aerial View of Receiver Site



### **Background/Request:**

#### **Sender Site:**

529 Eaton Street– One transient unit license: The applicant is proposing to transfer one (1) license from 529 Eaton Street. The structure at the sender site is currently in the early phase of a large restoration project which will result in the structure being used to house visiting artists as part of The Studios of Key West Artists in Residence Program. The sender site transient unit is currently depicted as approximately 500 sq. ft. in building permits submitted to the City. Previously, the transient unit was on the second floor and was 864 square feet with a bedroom, bathroom, living area and kitchen. The applicant would like the Planning Board to utilize the previous, larger configuration of the transient unit at the sender site and proposes to include the private porch area and some circulation area on the first floor to equate to 1,026 square feet. The applicant would like the Planning Board to consider occupants at approximately 4 adults, given that the sender site living room is currently also being used as a bedroom.

The structure at 529 Eaton St would convert to two non-transient dwelling units after the proposed license transfer. The first unit would be on the front right (south east corner) of the structure and would be comprised of the previously referenced 1-bedroom unit with kitchenette. The second unit would consist of the first-floor kitchen area and with 3 bedrooms upstairs.

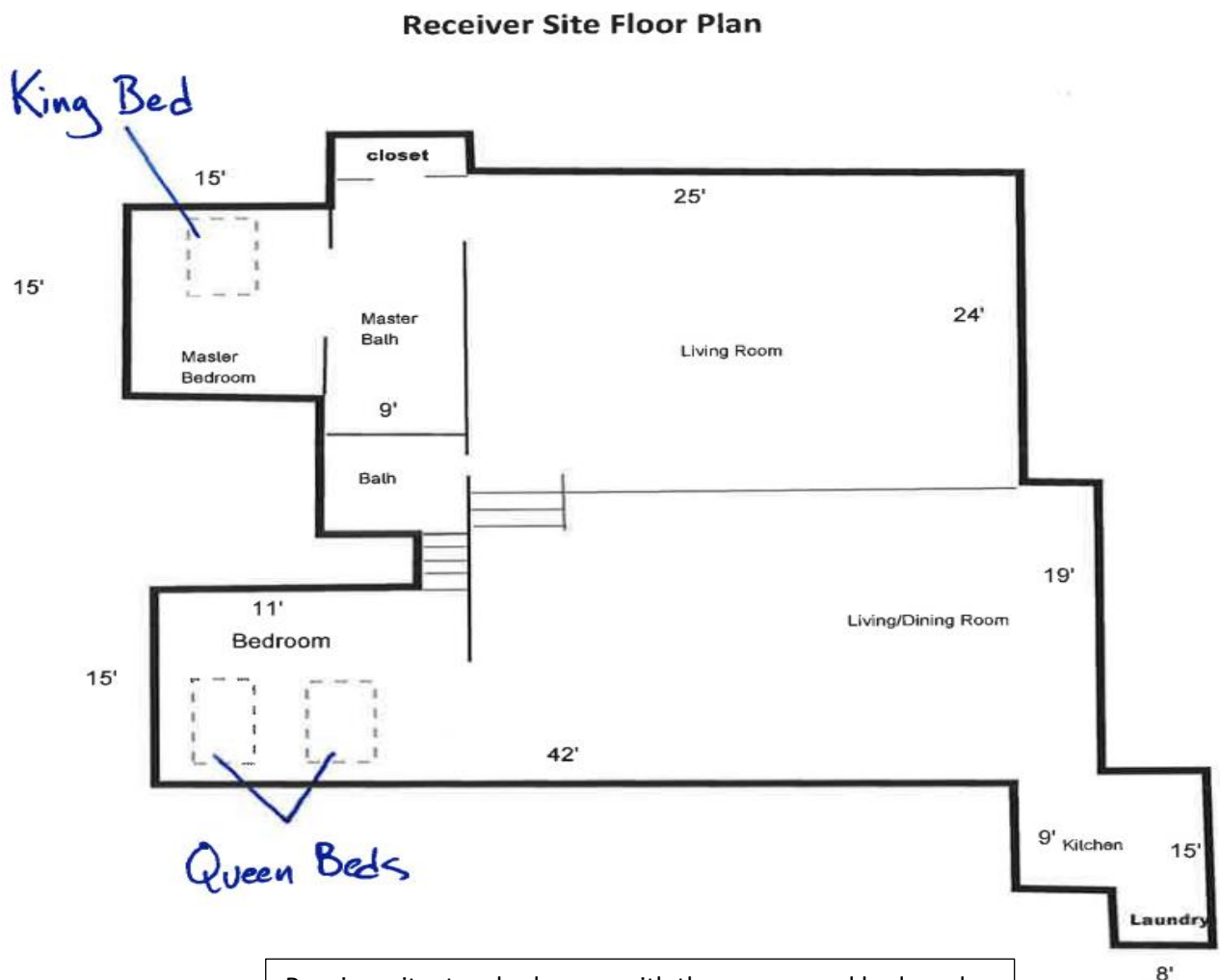
#### **Receiver Site:**

430 Fleming Street – The property proposed to receive the one transient unit license is a one bedroom with two baths and a living area; the total indoor square footage is approximately 1,700 sq. ft. The applicant has not provided the square footage of the exterior rooftop patios, but they likely equate to several hundred square feet. Consistent with prior transient transfer reviews and staff reports for this and other properties, private exterior porches and patios should not be considered for either site. The receiver site is located in the HRCC-1 zoning district. The receiver site is known locally as the Kress Building. Parking requirements were reviewed pursuant to Section 108-573, given that the receiver site is located

within the Historic Commercial Pedestrian Oriented Area. The number of onsite units at the receiver site is not increasing therefore no parking variance will be required. The proposed receiver site will not provide a designated off-site parking spot. The applicant is proposing to utilize a portion of the existing living area as a second bedroom.

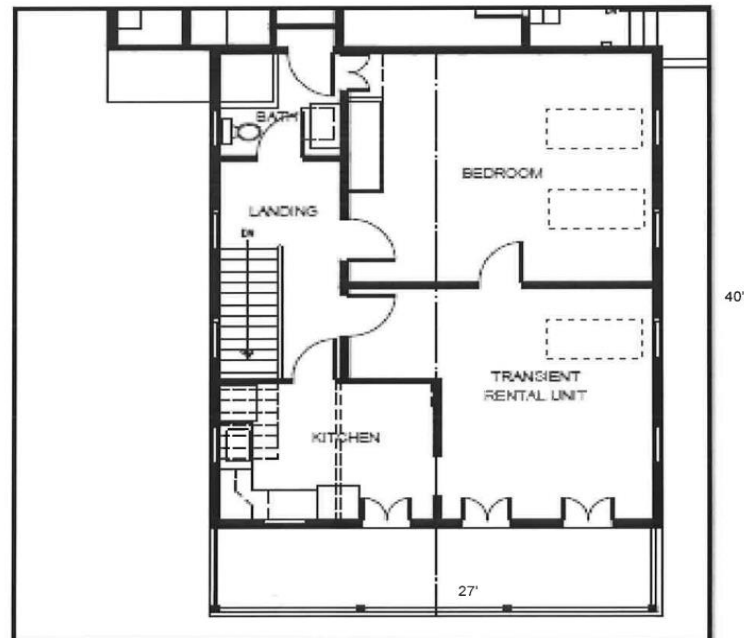
Section 122-1239 allows for transfers of licenses from the HNC-1 zoning district to a district where transient use is permitted. Section 122-1339(b) provides that the planning board shall consider whether the receiver site is suitable for transient use and shall consider the relative size of the unit from which the license is transferred and shall consider the room configuration of both sites to maintain approximately the same or less net number of occupants. In addition, Section 122-1342 provides that “if the receiver site is an historic structure, the planning board may consider retaining the room layout (notwithstanding sections 122-1338(5) and 122-1339(b) hereof) (emphasis added)”. The sender site reportedly utilizes a sleeper sofa in the living room for two occupants, while the receiver site proposes to utilize a portion of the living area as a second bedroom.

Receiver site at 430 Fleming St.



Receiver site: two bedrooms with three proposed beds and 1,700 square feet indoor area.

Sender site at 529 Eaton Street



Sender site: one bedroom with pull out bed in living area, one bathroom and kitchen, per applicant. 864 square feet indoor area.

**Process:**

<b>DRC Meeting:</b>	September 22, 2022
<b>Planning Board Meeting:</b>	November 17, 2022
<b>Local Appeal Period:</b>	10 days
<b>DEO Review Period:</b>	Up to 45 days

**Staff Analysis- Evaluation:**

*Section 122-1336 of the Land Development Regulations states, “The purpose of this division is to provide for the transfer of existing transient units and transient licenses in order to reduce noncomplying density, structures and uses; remove legal nonconforming transient uses from zoning districts that now prohibit them; encourage permanent residential housing by relocating transient licenses; provide for the conversion of transient units to single-family dwellings by the transfer of units; allow for redevelopment without increasing the population requiring evacuation during emergencies or increasing other public services; protect environmentally sensitive lands; and encourage redevelopment under the existing*

*rate of growth ordinance ("ROGO") that limits the allowable number of residential and transient units. . . ."*

- The applicant's proposed transfer does not reduce noncomplying density, structures or uses.
- The transfer would not result in removal of legal nonconforming transient units; transient uses are permitted in the HNC-1 zoning district (sender site)
- The transfer would allow for visiting artists to utilize the sender site on a non-transient basis, but would not appear to encourage permanent residential housing.
- Impact to population needing to evacuate will depend on the number of renters the receiver site versus the sender site.

The transient license transfer of one transient license from 529 Eaton Street to 430 Fleming Street shall also be reviewed by the criteria listed in *Section 122-1339- Transfer of transient business tax receipt.*

*(a) A business tax receipt for transient use of a unit may itself be transferred from an area where transient uses are prohibited to a receiver site without the accompanying transfer of the unit. In addition, licenses may be transferred from the HNC-1 and HNC-3 zoning districts. A transfer of a license under this section shall not result in a loss of affordable housing at the receiver site.*

The subject receiver site, 430 Fleming Street, is in the HRCC-1 zoning district that allows transient lodging as a permitted use. The transfer of the license from 529 Eaton Street would not result in the loss of affordable housing at the receiver site, as it is not a deed restricted unit.

#### IN COMPLIANCE

*(b) Where a license alone is transferred, the planning board shall consider whether the receiver site is suitable for transient use in the zoning district, shall consider the relative size of the unit from which the license is transferred, and shall consider the room configuration of both sites to maintain approximately the same or less net number of occupants.*

The receiver site is suitable for transient use due to the zoning district. (Section 122-687(8) The unit at 430 Fleming Street is a 1,700 S.F. penthouse while the sender site is approximately 864 square feet, which is about half the size of the receiver site. The sender site has two beds in the one-bedroom and is utilizing a sleeper sofa in the living room for two occupants. The receiver site proposes to utilize a portion of the living area for two beds and the existing bedroom. The room configuration is not incompatible but given the size differential of the sender and receiver sites, staff finds that the same or less net number of occupants is unlikely.

#### NOT IN COMPLIANCE

#### **Recommendation:**

The proposed transfer of one transient unit license to the receiver site of 430 Fleming Street is subject to Section 122-1336 generally, and more specifically, Section 122-1339. The proposal partially meets the required criteria for the transfer to be approved. The Planning Department recommends the request for a transfer of one transient unit license be **DENIED**. **The Department would support approval if the**

**applicant also transfers an additional transient license** to the receiver site to address the size difference and the capacity of the receiver site to host more guests than the sender site.

If the Planning Board chooses to approve the variance, the Planning Department recommends the following conditions:

1. The receiver site shall not allow for more than a total of four unrelated adults per night at the receiver site dwelling unit pursuant to Section 86-9 and to maintain approximately the same or less net number of occupants pursuant to City Code Section 122-1339.