

EXECUTIVE SUMMARY



To: Jim Scholl, City Manager
From: Kevin Bond, AICP, LEED Green Associate, Senior Planner
Through: Thaddeus Cohen, Planning Director
Meeting Date: July 7, 2015

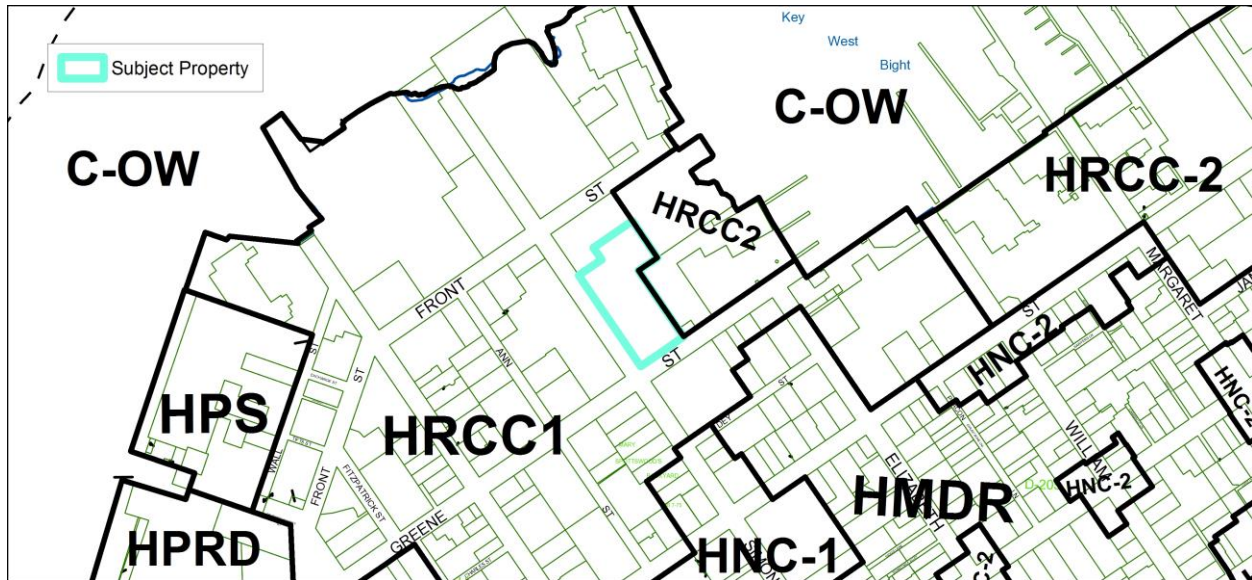
Agenda Item: **Change to conditions of City Commission Resolution No. 08-131 – 119-159 Simonton Street (RE # 00000240-000000; AK # 1000230) – A request to change a condition required by the original Major Development Plan approval granted by City Commission Resolution No. 08-131 on property located within the Historic Residential Commercial Core – Duval Street Gulfside (HRCC-1) Zoning District pursuant to Section 108-91.C.4. of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida**

Request: A change to a condition of City Commission Resolution No. 08-131 in order to permit transient use of the 20 non-transient residential dwelling units approved as part of a Major Development Plan in 2008.

Applicant: Trepanier & Associates, Inc.

Property Owner: Brytrex, LLC

Location: 119-159 Simonton Street (RE # 00000240-000000; AK # 1000230)



Request:

The applicant is requesting to change condition #4 of City Commission Resolution No. 08-131, which approved a Major Development Plan with four conditions. Condition #4 states, "There will be no transient licenses or use of said licenses at this location." The applicant proposes to modify the condition by adding "...unless transferred pursuant to Sec. 122-1339." The Major Development Plan approval in 2008 was for the construction of a 20-unit permanent (non-transient) townhouse-style residential development. If approved, the proposed modification of the condition would create the possibility of transient use of the dwelling units.

Background:

The property, located at the northern corner of Simonton and Greene Streets, is currently vacant, but appears to still operate as a temporary paid public parking lot. The prior lumber yard structures were demolished in preparation for construction of the new residential units. The property is located within the Key West Historic District.

In 2007, the Key West Planning Board approved five separate transient transfer resolutions from four different sender sites for a total of 20 dwelling units to be developed on the subject property, the receiver site. The transfers included transient licenses for three (3) of the 20 dwelling units.

In 2008, the City Commission approved with conditions a Major Development Plan for the redevelopment of the property into a 20-unit permanent (non-transient) residential development. The units were proposed to be two bedrooms and 2-½ stories each over parking with two parking spaces per unit. Condition #4 of Resolution No. 08-131 effectively prohibited transient use of the residential units by not allowing the transferred transient licenses to be used at the subject property. Those transient licenses are currently in "unassigned" status and owned by Key West 07 LLC, the owner of the subject property in 2008. The business tax receipt control numbers are 286 and 1686, and the transient medallion control numbers are 14356 and 18736.

Until this past fall, the redevelopment project had not commenced, having been granted several time extensions due to the economic recession. In September 2014, permits for demolition of existing structures and installation of concrete footings for cabana/pool house were issued to begin the project.

Prior City Actions (see attached approvals):

- March 20, 2007 – Planning Board Resolution No. 2007-007 approving the transfer of 12 ROGO allocations (1.0 equivalency) from 2801 N Roosevelt Blvd to the subject property.
- April 23, 2007 – Planning Board Resolution No. 2007-009 approving the transfer of two full (1.0) ROGO allocations and licenses from 710 Caroline Street to the subject property.
- May 23, 2007 – Planning Board Resolution No. 2007-008 approving the transfer of four full (1.0) ROGO allocations from 716-718 South Street to the subject property.
- May 23, 2007 – Planning Board Resolution No. 2007-011 approving the transfer of two transient (.58) ROGO allocations (combined to create one 1.0 equivalency non-transient unit) and licenses from 916 Fleming Street to the subject property.
- May 23, 2007 – Planning Board Resolution No. 2007-012 approving the transfer of two transient (.58) ROGO allocations (combined to create one 1.0 equivalency non-transient unit) from 916 Fleming Street to the subject property.

- March 4, 2008 – Planning Board Resolution No. 2008-003 recommended approval with a condition of the Major Development Plan for the 20-unit residential project.
- June 25, 2008 – City Commission Resolution No. 08-131 approved with conditions the Major Development Plan for the 20-unit residential project; which normally expires 12 months after approval if construction has not started pursuant to City Code Section 108-203.
- August 5, 2009 – City Commission Resolution No. 09-207 approved a one-year time extension of the Major Development Plan.
- September 16, 2009 – DCA does not appeal CC Res 09-207; expiration date now 9/16/2010.
- February 16, 2011 – SB 360 and SB 1752 two-year time extension granted; expiration date now 9/16/2012.
- November 15, 2011 – SB 7207 two-year time extension granted; rendered to DEO; expiration date now 9/16/2014.

Analysis:

Pursuant to City Code Section 108-91.C.4., changes to specific conditions required by the original development plan approval shall require approval by the administrative body that originally approved the development and shall be noticed in accordance with City Code Chapter 90, Article VIII, Division 2. In this case, the administrative body is the City Commission.

The requested modification of condition #4 of City Commission Resolution No. 08-131 would read: “There will be no transient licenses or use of said licenses at this location unless transferred pursuant to Sec. 122-1339.” If approved, the change would have the effect of making it possible to use any one or all of the 20 residential units transiently. Hotels, motels and transient lodging are permitted uses within the HRCC-1 Zoning District, pursuant to City Code Section 122-687(8).

Because the prior transient transfers utilized transient units and licenses (now called business tax receipts) from sender sites in order to convert them into non-transient units on the subject property (which was the receiver site), those transient business tax receipts are now extinguished pursuant to City Code Section 122-1338(2), with the exception of the business tax receipts representing three (3) transient units that were transferred via Planning Board Resolution Nos. 2007-009 and 2007-011. Therefore, if the requested condition change is approved, the prior approved transient license transfers would revert back from “unassigned” status to three of the dwelling units on the original receiver site, which is the subject property. Any future transient use of additional residential units would first have to obtain approval of a new transfer of transient business tax receipt pursuant to City Code Section 122-1339.

Furthermore, the previously-approved non-transient units were planned to be two bedrooms each. If a unit is converted from non-transient to transient use, then each room could be considered a separate “lock-out” transient unit, depending on the floor plan and how each unit is rented. Therefore, if the requested condition change is approved, each unit seeking to become transient may need to obtain multiple transient business tax receipts to meet the parity and lock-out requirements of LDRs. See City Code Sections 86-9, 122-1142 and 122-1339.

RECOMMENDATION: Denial

Staff recommends that the request to change condition #4 of City Commission Resolution No. 08-131 be denied. During the review of the original Major Development Plan application, the City Commission clearly weighed the impact of potential transient units versus non-transient units in this location and in the City in general. The City Commission was concerned about the creation of additional hotel units and the loss of residential housing that could be rented on a long-term basis, and therefore imposed the condition ensuring the units would be non-transient.