

**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Daniel Sobczak, AICP-C Planner II

Meeting Date: April 22nd, 2021

Application: Transient License Transfer – One (1) transient unit and license, and two (2) transient licenses in Unassigned Status to 512 Catherine Street (RE# 00028590-000000) – A request to transfer one (1) transient unit and license and two (2) transient licenses; two licenses associated with the Studios of Key West and one unit and license associated with a Hyatt license from Resolution 2015-23, to a property located at 512 Catherine Street within the Historic Residential Commercial Core (HRCC-3) zoning district pursuant to Sections 122-747, 122-1338, and 122-1339 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: The transfer of one (1) transient license and unit and two (2) transient licenses in unassigned status in order to construct two single-family structures on a vacant parcel located at 512 Catherine St. located in the HRCC-3 zoning district.

Applicant: Greg Oropeza

Property Owner: 512 Catherine Street, LLC

Location: 512 Catherine Street (RE# 00028590-000000)



Background:

Sender Sites:

529 Eaton Street – Two transient licenses: The Studios of Key West received a Lawful Unit Determination in 2019 and were allocated three (3) additional transient units by the City of Key West, for a total of four (4) transient units and one (1) residential unit. One of these units and licenses was transferred in 2020. The Studios of Key West currently use three units residentially and one unit on a transient basis.

- Transient license #1
 - Transient license #1 stems from Unit 5 at the Studios of Key West. Unit 5 is a one-bedroom 640 sqft studio unit with a bathroom, bed, and has access to a shared kitchen facility (192 sqft). Transient license #1 and #3 will be used to construct Unit “A” at 512 Catherine.
- Transient License #2
 - Transient license #2 from the Studios of Key West is from Unit 2/3, a unit that was converted from two separate units in 2020 and is 474 sqft. Unit 2/3 has two bathrooms, cooking facilities, and a bedroom. Transient license #2 will be used to construct Unit “B” at 512 Catherine.

914 Frances / 3591 S. Roosevelt – One transient license and unit: The applicant is proposing to transfer one (1) unit and license from 914 Frances/3591 S. Roosevelt which is currently in unassigned status. The unit is from Resolution No. 2005-040 and Resolution 2006-019 which transferred three separate units and licenses from 914 Frances to 3591 S. Roosevelt. Due to various reasons, the development was never constructed and Resolution No. 2015-23 dissolved Resolutions 2005-040 and 2006-019. All three units and licenses were then transferred back to 914 Frances and put into unassigned status. The term *unassigned* has been replaced at the City, going forward from January 2020, the City has used *no use permitted* to signify a transient license that is addressed to a property that cannot be used.

- Transient Unit and License #3
 - The transient unit from 914 Frances/3591 S. Roosevelt is conditioned to be transferred and is a three-bedroom unit. The applicant is proposing to transfer one unit from 914 Frances/3591 S. Roosevelt currently in unassigned status to 512 Catherine. Transient license #1 and #3 will be used to construct Unit “A” at 512 Catherine.

Receiver Site:

The single structure at 512 Catherine was about 1,400 sqft and had two dwelling units. The structure at 512 Catherine was deemed unsafe and unfit for human habitation pursuant to Article II, Section 14-71 – 14-73 of the Key West Code of Ordinances. Due to the structural dangers, the home at 512 Catherine was demolished, leaving a vacant lot. On the vacant lot, the applicant is proposing to construct two single-family structures, designated as Unit “A” and Unit “B”. The property located at 512 Catherine is located in the “Permitted” transient rental transfer area. Parcels located in HRCC-3 are permitted by right to have hotels, motels, and transient lodging. The property’s zoning allows two dwelling units on the property. City Code states that a transient unit may not be larger than two rooms, excluding bathrooms, porches, etc. Both proposed transient structures are larger than two rooms.

- Unit “A” is a proposed two-floor 2,320 sqft structure with five-bedrooms, five-bathrooms, a laundry room, media alcove, dining living room, and a pool surrounded by a large wood deck. Transient license #1 (640 sqft) and #3 (three-bedroom) will be used to construct Unit “A” at 512

Catherine.

- Unit “B” is a proposed 1,370 sqft. two-bedroom, three-bathroom unit with a kitchen, dining/living room, and wood deck in the rear yard. Transient license #2 (474 sqft) will be used to construct Unit “B” at 512 Catherine. The size difference between the size Unit “B” and the size of the one transient license is 896 sqft.

Section 122-1336 of the Land Development Regulations describes the purpose of the transient unit and/or transient license transfer. Transfers are to reduce noncomplying density, remove legal nonconforming transient units, encourage permanent residential housing, and allow for redevelopment. The applicant’s proposed transfer of two transient licenses from the Studios of Key West does not reduce noncomplying density, does convert legal nonconforming transient units to non-transient units, does encourage permanent residential housing, and allows for redevelopment at the receiver site. The Studios of Key West currently has four units on the property that are being used by the Studios for their artist in residency program. The Studios property is located in the HNC-1 zoning district which allows transient use.

The applicant’s proposed transfer of a unit and license from 914 Frances/3591 S. Roosevelt are currently in unassigned status, their noncomplying density and legal nonconformity have already been reduced and removed from 914 Frances and 3591 S. Roosevelt. The transfer of the unit and license allow for redevelopment.

Process:

Planning Board Meeting:	March 18 th , 2021 - Postponed
Planning Board Meeting:	April 22 nd , 2021
Local Appeal Period:	10 Days
Planning renders to DEO for review:	Up to 45 days

Staff Analysis - Evaluation:

The subject receiver parcel is located in the HRCC-3 zoning district, which allows for transient lodging as a permitted use. The transient license transfer of two transient licenses from the Studios of Key West and one unit and license from 914 Frances/3591 S. Roosevelt shall be reviewed by the criteria listed in Section 122-1339.

City Code Section 122-1338 governs the transfer of transient units. Unit “A” of 512 Catherine Street will be reviewed using the criteria listed in Section 122-1338 due to the transfer of the license and unit from 514 Frances/3591 S. Roosevelt.

- (1) The unit being transferred must currently be counted as a unit for purposes of calculating evacuation time under the hurricane model set forth in the comprehensive plan, and must have been obtained in accordance with all applicable regulations, including building permits, at the time of approval or have been otherwise validly obtained if unbuilt at the time of transfer. A transfer pursuant to this division shall not cause a net increase of units in the city.
 - a. The unit from 914 Frances/3591 S. Roosevelt is currently counted as a unit for the purposes of calculating evacuation time.

IN COMPLIANCE

(2) Transient use must be an allowed zoning use on the receiver site, unless the units are to be converted into non-transient units as contemplated by subsection (3) of this section. Further, no transient unit shall be recognized for transfer purposes, regardless of whether it will be used transiently or non-transiently, unless accompanied by a business tax receipt duly issued pursuant to section 66-109(10). When units are transferred for non-transient use, the licenses will be extinguished.

a. Transient use is allowed in the HRCC-3 zoning district.

IN COMPLIANCE

(3) Transient units may be converted to residential units at the appropriate exchange rate as determined by the comprehensive plan so as not to increase hurricane evacuation time. Where a residential unit is created by the transfer of a transient unit and the new residential unit is 600 square feet or less, the transient unit may be transferred at its .58 ROGO unit equivalency into a residential unit with transient use prohibited.

a. Transient unit is not being converted to a residential unit.

IN COMPLIANCE

(4) The transferred units shall not operate to increase density of the receiver site above the maximum allowed density.

a. The parcel located at 512 Catherine Street is 5,082 sqft in total area. HRCC-3 allows 22 dwelling units an acre. The parcel at 512 Catherine street is allowed two (2) dwelling units.

IN COMPLIANCE

(5) Unless the planning board determines that special conditions exist at the receiver site that warrant otherwise, the transient unit may not include more than two rooms, excluding bathrooms, and excluding porches and decks that are clearly not enclosed or habitable.

a. The applicant's proposed Unit "A" is larger than the two-room code requirement, Unit "A" is 2,320 sqft. and includes eight (8) rooms in total, five bedrooms, kitchen, media alcove, and a dining/living room. Unit "B" is also larger than the two-room code requirement, Unit "B" is 1,370 sqft with three (3) rooms in total.

b. The addition to the code specifying that "Unless the Planning board determines that special conditions exist at the receiver site that warrant otherwise, the transient unit may not include more than two rooms..." was introduced in 2005 and codified in 2006 in an effort to maintain equivalency and hurricane evacuation times. The Planning Department does not find that *special conditions* exist.

NOT IN COMPLIANCE

(6) At the sender site, any remaining transient units that are remodeled or combined may not increase the existing number of rooms, excluding bathrooms. All such units shall not have "lockout" capacity.

a. The unit from 914 Frances/3591 S. Roosevelt is unassigned and has been removed from the property.

IN COMPLIANCE

(7) There shall be no transfer of units into a "V" zone as depicted on the most current flood insurance rate map, if the transfer would produce new construction.

a. The parcel at 512 Catherine St. is not located in a "V" zone.

IN COMPLIANCE

(8) Existing nonconforming buildings may receive units providing their nonconforming aspects are not increased.

a. The parcel at 512 Catherine St. is currently vacant, there are no nonconforming buildings on the lot.

IN COMPLIANCE

(9) Development plans for both sites shall be processed as provided in the LDRs, according to the magnitude and type of development.

a. The proposed plans will be processed as provided in the LDRs.

IN COMPLIANCE

(10) No building permit shall be granted for the receiver site until the city has verified that the transient use at the sender site unit(s) has been extinguished. A person or entity who has lawfully terminated or extinguished legal transient units existing as of January 1, 1999, may preserve the right to transfer the units and then transfer such units pursuant to this section, provided the transient licenses have been maintained. Furthermore, the city shall conduct on-site inspections at both the sender site and receiver site to verify that the terms of this ordinance are being met in the proposed transfer application.

a. If approved, an inspection will be scheduled prior to a Certificate of Occupancy being issued to the proposed development.

IN COMPLIANCE

City Code Section 122-1339 governs the transfer of transient licenses.

(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.

1. The subject receiver site, 512 Catherine, is located in the HRCC-3 zoning district that allows transient lodging as a permitted use. The Transient Rental Transfer Location map created by the Planning Department in 2004 shows 512 Catherine in the "Permitted" area. The transfer of the Studios of Key West licenses from 529 Eaton to 512 Catherine would not result in the loss of affordable housing at the receiver site.

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.

1. 512 Catherine Street is a vacant lot. The applicant has proposed to construct two structures at the lot, Unit "A" and Unit "B".

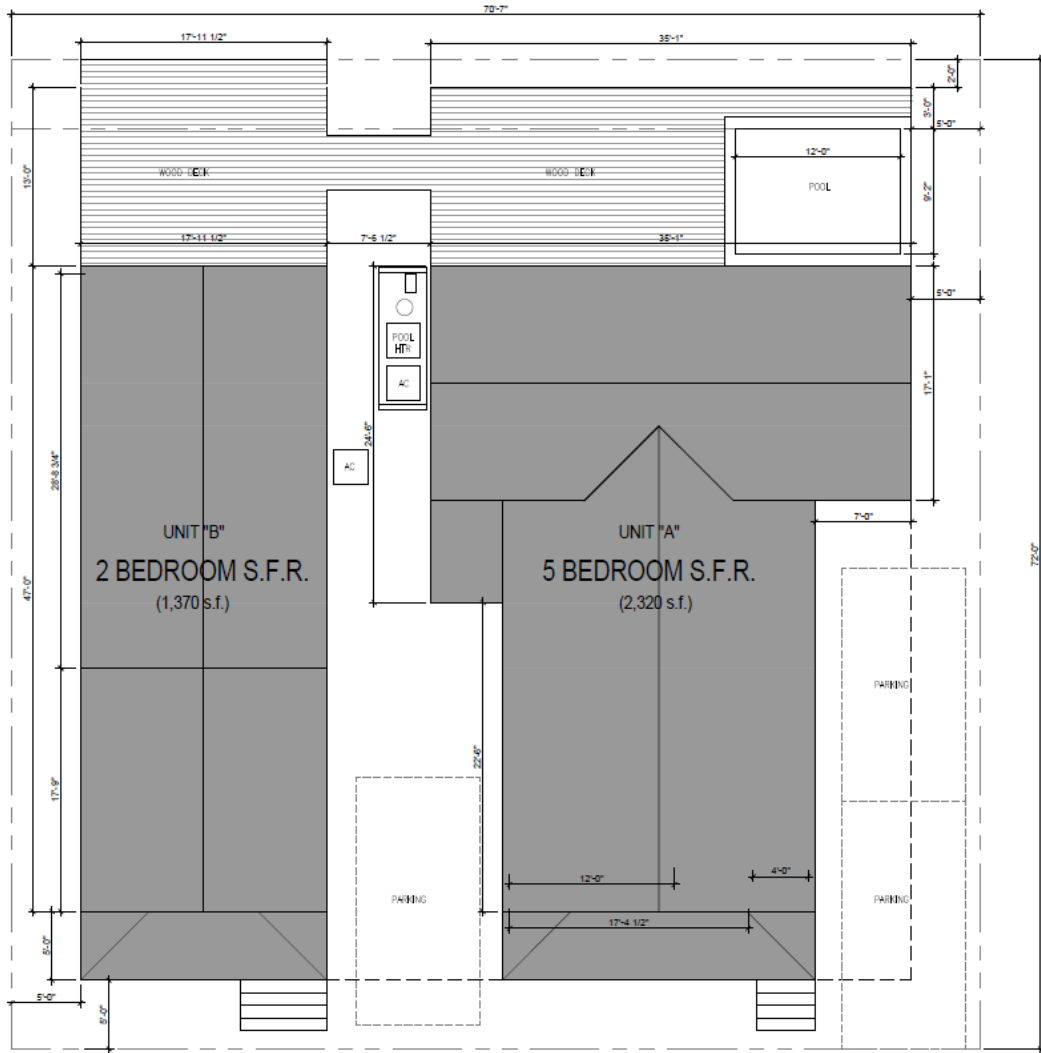
Unit "A" is a 2,320 sqft. two-floor structure with five bedrooms and five bathrooms. Transient license #1 and #3 will be used to construct Unit "A" at 512 Catherine. Transient license #1 is a 640 sqft. studio apartment with a bedroom, bathroom, and shared kitchen facility. This license represents one bedroom.

Transient license #3 is from 914 Frances/3591 S. Roosevelt. Transient license #3 was transferred in Resolutions No. 2005-40, 2005-41, and 2006-19. Planning Board Resolution No. 2015-23 dissolved the transfers and specified that future development of these units to not exceed three bedrooms. Unit "A" is proposed to be larger in scale, scope, size, and bedrooms than both licenses combined that are proposed to be transferred. Additionally, Unit "A" is one bedroom larger than the combined licenses.

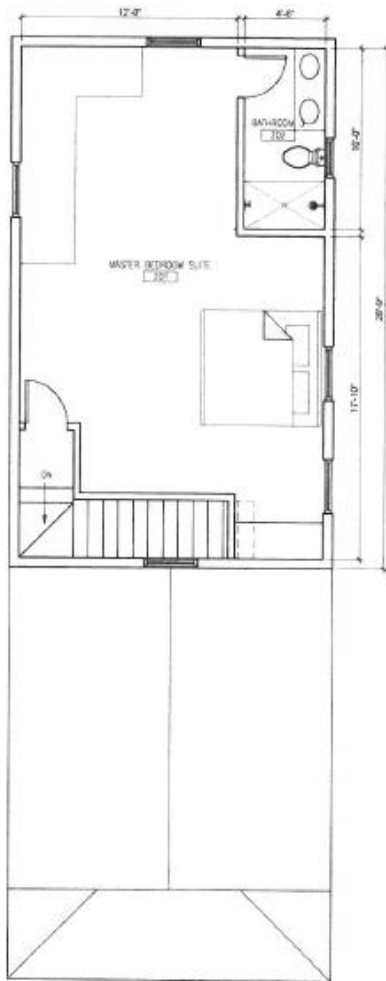
Unit "B" is a 1,370 sqft and is a two-bedroom, three-bathroom unit with a kitchen and dining/living room. Transient license #2 (474 sqft) will be used to construct Unit "B" at 512 Catherine. It is smaller than the proposed Unit "B" and has one less bedroom. Unit "B" is proposed to be significantly larger in scale, scope, size, and bedrooms than the license proposed to be transferred.

NOT IN COMPLIANCE

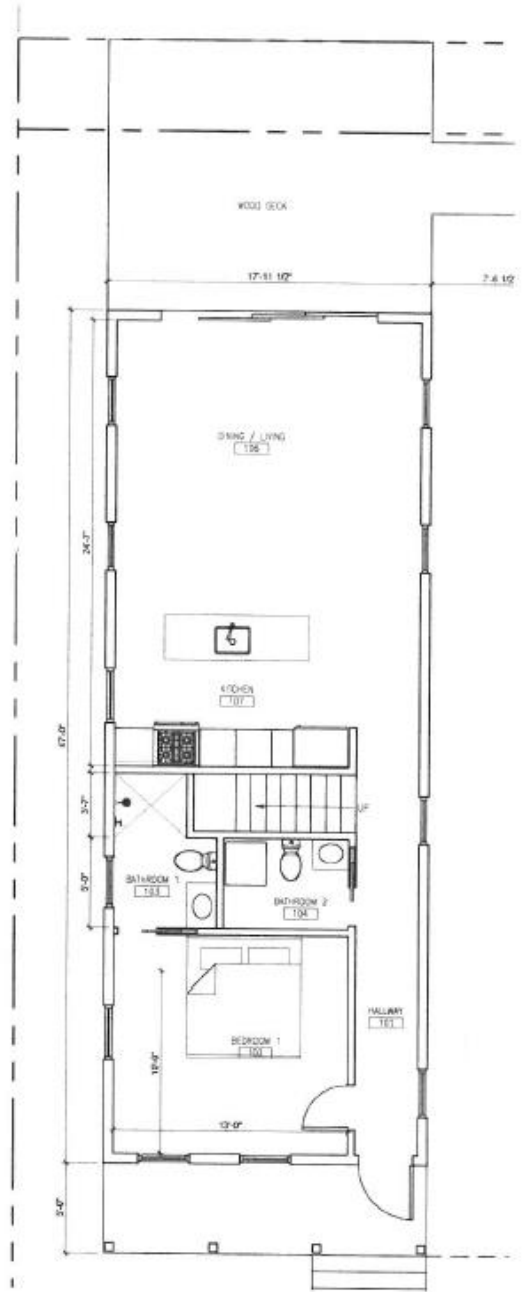
512 Catherine, Proposed site plans for Unit "A" and Unit "B"



512 Catherine, Proposed Floor plans for Unit "B"

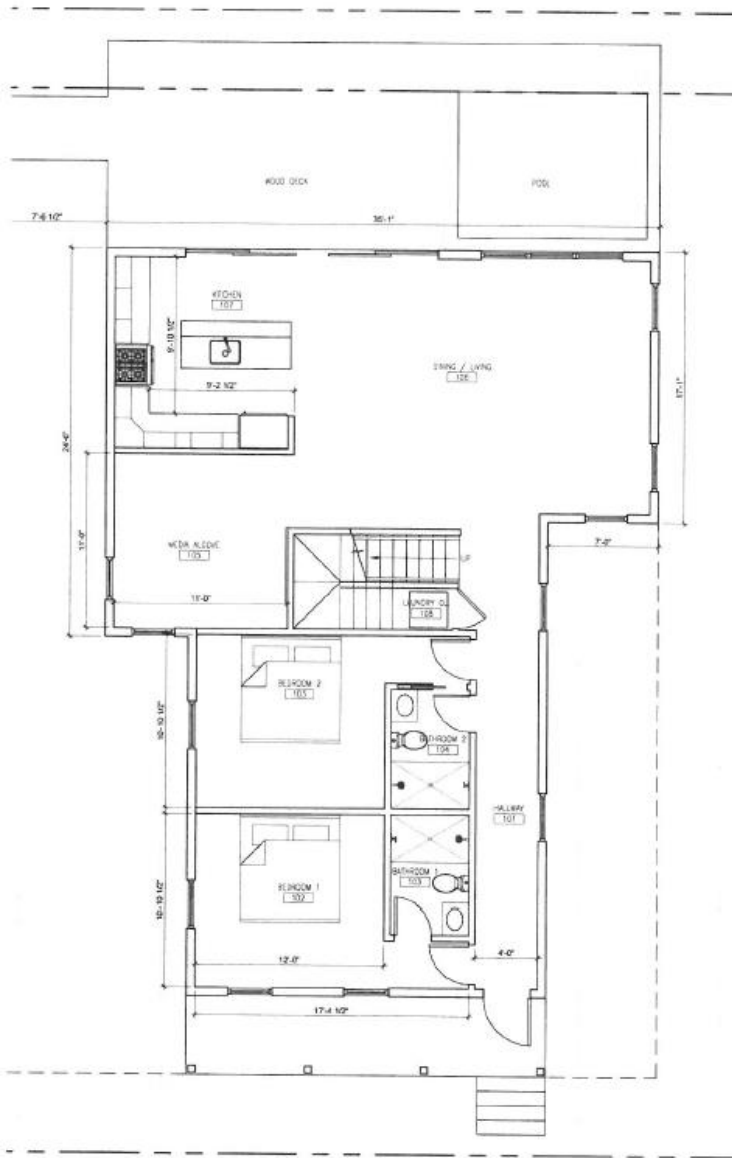


2 SECOND FLOOR PLAN - UNIT "B"
A2.1 SCALE: 1/4"=1'-0"

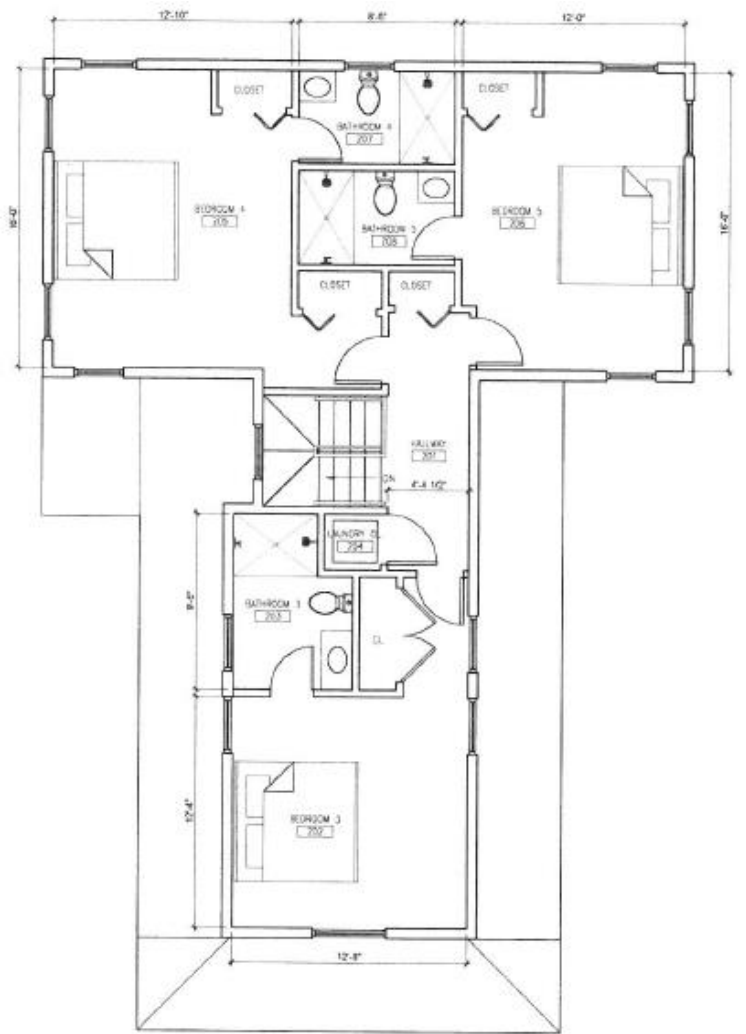


1 FIRST FLOOR PLAN - UNIT "B"
A2.1 SCALE: 1/4"=1'-0"

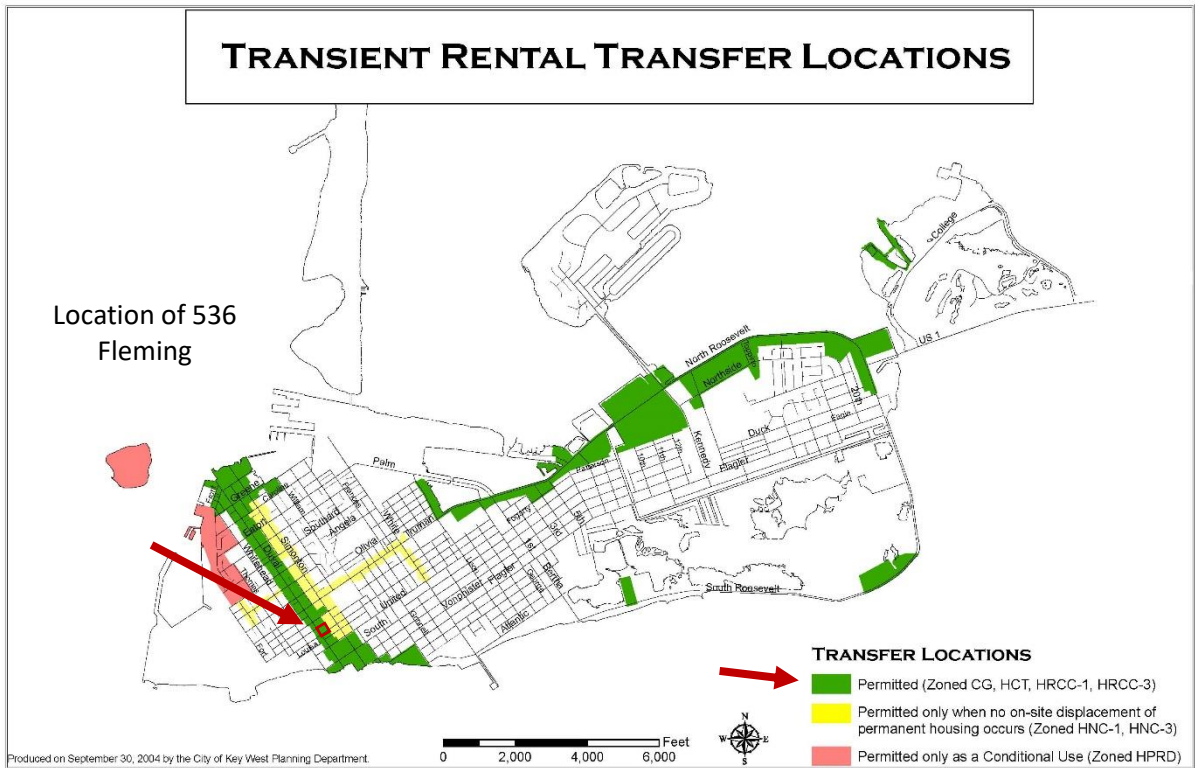
512 Catherine, Proposed Floor plans for Unit "A"



1 FIRST FLOOR PLAN - UNIT "A"
A2.1 SCALE: 1/4"=1'-0"



2 SECOND FLOOR PLAN - UNIT "A"
A2.1 SCALE: 1/4"=1'-0"



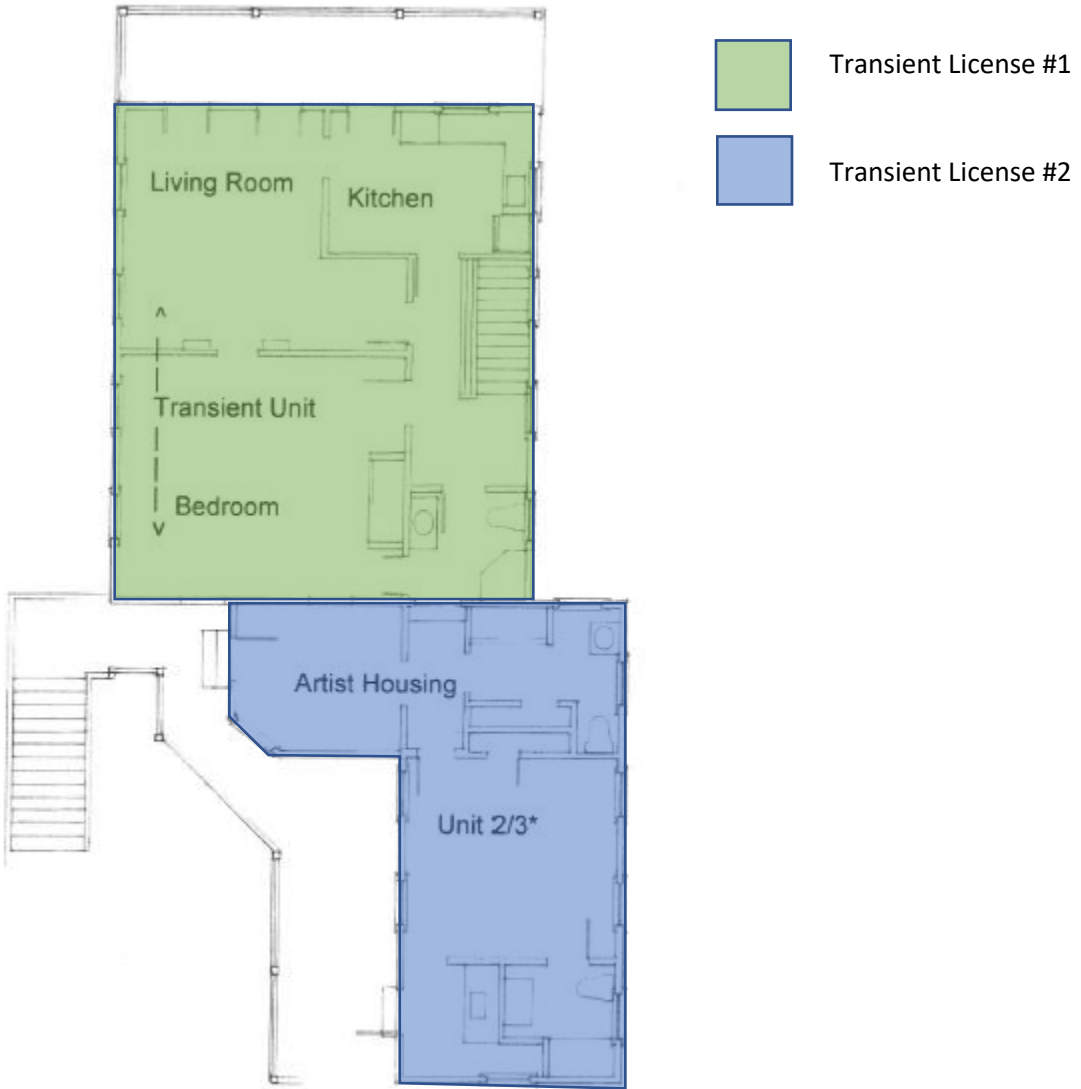
Recommendation:

The proposed transfer of a transient unit and three transient licenses to the sender site of 512 Catherine is subject to Section 122-1338 and Section 122-1339. The proposal does not meet all the required criteria in order for a transient transfer to be approved. Section 122-1338 (5) states transient units shall not include more than two rooms, excluding bathrooms, porches, and decks, unless special conditions are found. The proposed Unit "A" will be a newly constructed 2,320 sqft., eight room structure. The Planning Department has not identified any Special Conditions in relation to the proposed sender site structures.

Additionally, the scale and size of the licenses being transferred are not equal to the scale and size of the proposed structures at 512 Catherine St. Historically, the Planning Board has required that the sender site be similar in scale and size to the receiver site in order to be approved, per Section 122-1338 and Section 122-1339. Due to the size disparity and the amount of rooms and bedrooms in the proposed development, the Planning Department recommends that the applicant transfer another transient license(s)/unit to the property in order to maintain the scale and size of the licenses and the proposed structure. Based on a review of the application according to the stringent evaluation criteria established by the Comprehensive Plan and the Land Development Regulations and the absence of Special Conditions, the Planning Department recommends the request for a transfer of transient license be **DENIED**. If the Planning Board approves the application, the Planning Department requests the following conditions of approval:

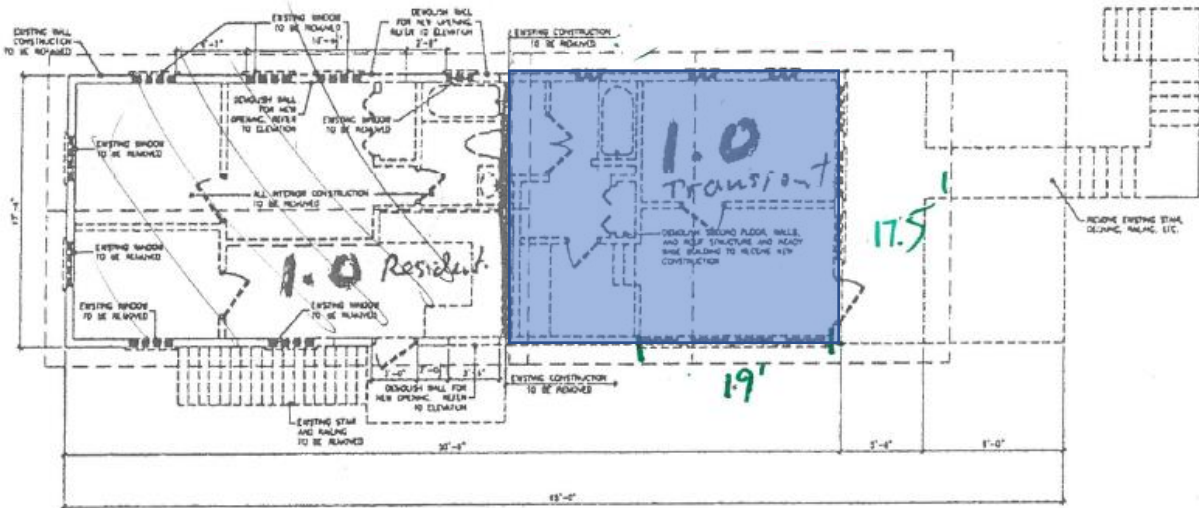
- 1) The applicant add an additional transient license to the application for a total of four (4) transient licenses transferred to the proposed structures at 512 Catherine St.
- 2) The proposed construction shall be consistent with the plans submitted and dated 6/10/2020 by William Shepler.
- 3) Per Section 122-1338 an inspection be scheduled prior to issuance of a Certificate of Occupancy. The inspection shall demonstrate that the transient use at the sender site(s) have been extinguished.

Building Plans, 529 Eaton, Transient Licenses #1 and #2



*Unit 2/3 was previously two units that have now been combined into one

Building Plans, 914 Frances, Transient License and unit #3



Building Plans, 3591 S. Roosevelt, Transient License and unit #3

