

THE CITY OF KEY WEST
PLANNING DEPARTMENT
STAFF REPORT



To: Chairman and Planning Board Members

From: Ashley Monnier, Planner II

Through: Donald Leland Craig, AICP, Interim Planning Director

Meeting Date: January 20, 2010

Subject: A request for 12 month extension to an approved Transient Unit and License Transfer within the HNC-1 zoning district per Section 122-1344 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida (RE# 00006500-000000 and 00006500-000100).

SITE DATA

Sender Site

License Owner: Lynn Kephart
Agent: Adele V. Stones
Location: 807-811 Washington Street (RE# 00037820-000000, 00037850-000000, 00037840-000000) & 1111 Duval Street (RE# 00027670-000100)
Zoning: Historic Medium Density Residential (HMDR) & Historic Residential Commercial Core Duval Street Oceanside (HRCC-3) zoning districts respectively
Existing Uses: Redeveloped as single family residential and commercial retail respectively

Receiver Site

Owner: Lynn Kephart
Agent: Adele V. Stones
Location: 524 Eaton Street (RE# 00006500-000000)
Zoning: Historic Neighborhood Commercial (HNC-1) zoning district
Existing Use: Mixed office with one non-transient residential unit
Proposed Uses: Mixed office, theater, four transient residential units and one non-transient residential unit

BACKGROUND

The property was the subject of a transient unit, and associated license transfer approval in November of 2009 (approved through Planning Board Resolution 2009-044). Section 122-1344 of the Land Development Regulations provides that transient unit and license transfers must occur within 18 months of Planning Board approval, however Resolution 2009-044 provided only a 12 month timeframe for execution. The property was the subject of a series of other development approvals, in which final resolution has not been fully achieved. Consequently, the

construction associated with the transient transfer approval has not been completed, and has prompted the transient transfer extension request.

PLANNING STAFF ANALYSIS

According to information provided to the Planning Department, the transient use at the sender site has been eliminated. The Planning Department believes that the request is consistent with the intent of the ordinance because the transient use has been eliminated from the sending site. However, in an abundance of caution, the applicant has submitted a one year extension request because construction (associated with this request and other development approvals) has not yet occurred on the site. Section 122-1344 of the Code provides a mechanism for applicants to be able to apply to the Planning Board for extension(s), should the transfer not occur within the 18 month window.

RECOMMENDATION

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends the request for extension be approved for an additional 12 months.

Draft Resolution

RESOLUTION NO- 2011-XXX

A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING A 12-MONTH EXTENSION TO A TRANSIENT UNIT AND LICENSE TRANSFER APPROVED BY PLANNING BOARD RESOLUTION 2009-044 WITHIN THE HNC-1 ZONING DISTRICT PER SECTION 122-1344 FOR PROPERTY LOCATED AT 524 EATON STREET (RE# 00006500-000000) and (00006500-000100), UNDER THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the applicant has requested a 12-month extension to an approved transient unit and license transfer (Planning Board Resolution 2009-044); and

WHEREAS, Code Section 122-1344 allows applicants to request an extension(s) to approved transient unit and license transfers from the Planning Board; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on _____; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the City of Key West, Florida:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. That the 12-month extension of Planning Board resolution 2009-044 in the HNC-1 zoning district per Section 122-1344 of the Land Development Regulations of the Code

of Ordinances of the City of Key West, Florida (RE# 00006500-000000 and 00006500-000100), is approved.

Section 3. It is a condition of this resolution that full, complete, and final application for all permits required for any new construction for any use and occupancy for which this resolution is wholly or partly necessary shall be submitted in its entirety within 12-months after the date hereof; and further, that no application or reapplication for new construction for which the resolution is wholly or partly necessary shall be made after expiration of the 12-month period without the applicant obtaining an extension from the Planning Board and demonstrating that no change of circumstances to the property or its underlying zoning has occurred.

Section 4. This resolution does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 6. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty

five (45) days after it has been properly rendered to the DCA with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DCA can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Read and passed on first reading at a regular meeting held this ____day of ____2011.

Authenticated by the Chairman of the Planning Board and the Interim Planning Director.

Richard Klitenick, Chairman
Key West Planning Board

Date

Attest:

Donald Leland Craig, AICP
Interim Planning Director

Date

Filed with the Clerk:

Cheryl Smith, City Clerk

Date

_____Chairman

_____Interim Planning Director

**Planning Board Resolution
2009-044**



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

December 30, 2009

Mrs. Amy Kimball-Murley, AICP
akimball@keywestcity.com
City of Key West Planning Director
P.O. Box 1409
Key West, Florida 33041

Re: Res# 2009-044 512-524 Eaton St.

The Area of Critical State Concern program has received and reviewed the above referenced permit in accordance with Section 380.07, Florida Statutes. The permit would authorize transfer of four transient units. The Department will not appeal the transfer of transient permits, however, prior to any permits for renovation being issued, please provide documentation of the "unity of title" at the receiving site.

This letter is not intended to constitute, and shall not be construed as constituting, a verification of compliance with the Comprehensive Plan and Land Development Regulations, and shall not be relied upon as a precedent or a waiver of rights regarding any other development order or other growth management laws or statutes.

If additional information is needed, please call Rebecca Jetton @ (850) 922-1766.

Sincerely,

Rebecca Jetton, Administrator
Florida Keys Area of Critical State Concern

RJ/kj

RESOLUTION NUMBER 2009-044

A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING A TRANSFER OF FOUR TRANSIENT UNITS AND ASSOCIATED TRANSIENT BUSINESS TAX RECEIPTS, THREE FROM PROPERTY LOCATED AT 807-811 WASHINGTON STREET (RE# 00037820-000000, 00037850-000000, 000378400-000000) AND ONE FROM PROPERTY LOCATED AT 1111 DUVAL STREET (RE# 00027670-000100) TO PROPERTY LOCATED AT 512-524 EATON STREET (RE#00006500-000000 & 00006500-000100), KEY WEST FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Sections 122-1336 through 122-1339 of the Code of Ordinances provide for the transfer of transient units and business tax receipts; and

WHEREAS, Section 122-1339 (a) of the Code of Ordinances allows a transient business tax receipt to be transferred from an area where transient uses are prohibited to a receiver site without the accompanying transfer of the unit; and



WHEREAS, Section 122-1339 (b) requires that the planning board consider the relative size of the unit from which the license is transferred and the room configuration of both sites to maintain approximately the same or less net number of occupants; and

WHEREAS, the transient use at the sender site is a legal non-conforming use and a permitted use at the receiving site; and

WHEREAS, both sender and receiver sites are of the same relative size; now therefore,

BE IT RESOLVED by the Planning Board of the City of Key West, Florida:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.


Chairman

Planning Director

Section 2. That a transfer of a transient business tax receipt, pursuant to Section 122-1339 of the Code of Ordinances of the City of Key West, Florida, is hereby granted as follows: ALLOWING A TRANSFER OF FOUR TRANSIENT UNITS AT 0.58 ESFU AND ASSOCIATED BUSINESS TAX RECEIPTS, THREE FROM PROPERTY LOCATED AT 807-811 WASHINGTON STREET (RE# 00037820-000000, 00037850-000000, 000378400-000000) AND ONE FROM PROPERTY LOCATED AT 1111 DUVAL STREET (RE# 00027670-000100)) TO PROPERTY LOCATED AT 512-524 EATON STREET (RE#00006500-000000 & 00006500-000100), PER THE ATTACHED PLANS with the following conditions:



- That the Major Development Plan enabling these uses is approved and remains in effect; and
- That the variances to dimensional requirements for the Major Development Plan are approved and remain in effect; and
- Only four transient units are allowed through this transfer. Lock-outs are specifically prohibited.

Section 3. Full, complete, and final application for all licenses and permits required for which this resolution is wholly or partly necessary, shall be submitted in its entirety within 12 months after the date hereof.

Section 4. This transfer of a transient business tax receipt does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

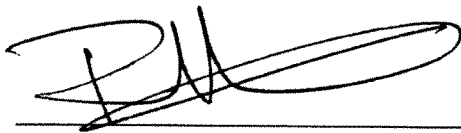
Section 6. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has


Chairman

Planning Director

expired, this permit will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit is not effective for forty five (45) days after it has been properly rendered to the DCA with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DCA can appeal the permit to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

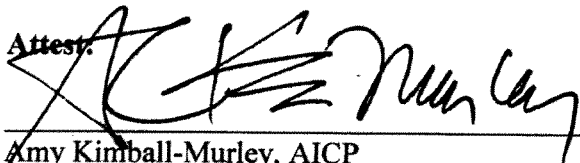
Read and passed on first reading at a regular meeting held this 10th day of November, 2009.

Authenticated by the Chairman of the Planning Board and the Planning Director.



Richard Klitenick, Chairman
Key West Planning Board

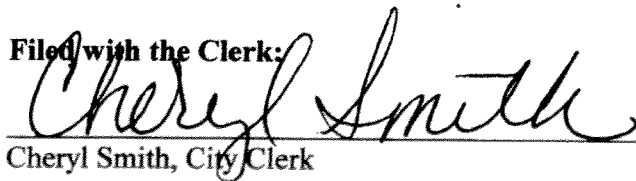
11/23/09
Date

Attest: 

Amy Kimball-Murley, AICP
Planning Director

11/23/09
Date

Filed with the Clerk:



Cheryl Smith, City Clerk

11-23-09
Date



Extension Request

STONES & CARDENAS

ATTORNEYS AT LAW

221 SIMONTON STREET, KEY WEST, FL 33040
TELEPHONE (305) 294-0252 FAX (305) 292-5442

ADELE VIRGINIA STONES, P.A.

SUSAN M. CARDENAS, P.A.

October 27, 2010

Amy Kimball Murley, Planning Director
City of Key West
PO Box 1409
Key West, FL 33041

Re: 524 Eaton Street – Transient License Transfer
Planning Board Resolution No. 09-044

Dear Mrs. Kimball Murley:

Please accept this letter as a Petition for a one (1) year extension (12 months) authorized pursuant to Chapter 108, Division 6, Section 108-203(b) of the Land Development Regulations. The transfer of transient units to this property has been hindered by problems with the associated conditional use on the same property.

This extension would not adversely impact the surrounding neighborhood.

Thank you for your kind assistance.

Sincerely,



Adele V. Stones
AVS/cms
c: client





Public Notice, Radius Map, Labels

Public Notice

The Key West Planning Board will hold a public hearing **at 6:00 p.m., January 20, 2011, at Old City Hall, 510 Greene Street**, Key West, Florida, (Behind Sloppy Joe's Bar). The purpose of the hearing will be to consider a request for:

Transient Transfer Extension Request –512-524 Eaton Street (RE# 00006500-000000 and 00006500-000100) – A request for 12 month extension to an approved Transient Unit and License Transfer within the HNC-1 zoning district per Section 122-1344 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

If you wish to see the application or have any questions, you may visit the Planning Department during regular office hours at 3140 Flagler Avenue call 809-3720 or visit our website at www.keywestcity.com .

YOU ARE WITHIN 300 FEET OF THE SUBJECT PROPERTY

The City of Key West Planning Board will be holding a Public Hearing:

Request: **Transient Transfer Extension Request –512-524 Eaton Street (RE# 00006500-000000 and 00006500-000100)** – A request for 12 month extension to an approved Transient Unit and License Transfer within the HNC-1 zoning district per Section 122-1344 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Applicant: Adele V. Stones, Stones & Cardenas **Owner:** Lynn Kephart

Project Location: 512-524 Eaton Street **Date of Hearing:** Thursday, January 20, 2011

Time of Hearing: 6:00 PM **Location of Hearing:** Old City Hall – City Commission Chambers, 510 Greene St

Interested parties may appear at the public hearing(s) and be heard with respect to the applications. A copy of the corresponding application is available from the City of Key West Planning Department located at 3140 Flagler Avenue, Key West, Florida, Monday through Friday between the hours of 8:00 am and 5:00 pm. **Packets can be viewed online at www.keywestcity.com. Click on City Board & Committee Agendas.**

Please provide written comments to the Planning Department, PO Box 1409, Key West, FL 33041-1409 , by FAX (305) 809-3978 or by email ccowart@keywestcity.com .

Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the Planning Commission or the City Commission with respect to any matter considered at such hearing or meeting, one will need a record of the proceedings and for such purpose that person may need to ensure that a verbatim record of the proceedings is made; such record includes the testimony and evidence upon which the appeal is to be based.

ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the ADA Coordinator at 305-809-3951 between the hours of 8:00 a.m. and 5:00 p.m., or information on access available to individuals with disabilities. To request materials in accessible format, a sign language interpreter or other assistance (5 days advance notice required), please call 305-809-1000 for assistance.

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512-524 Eaton

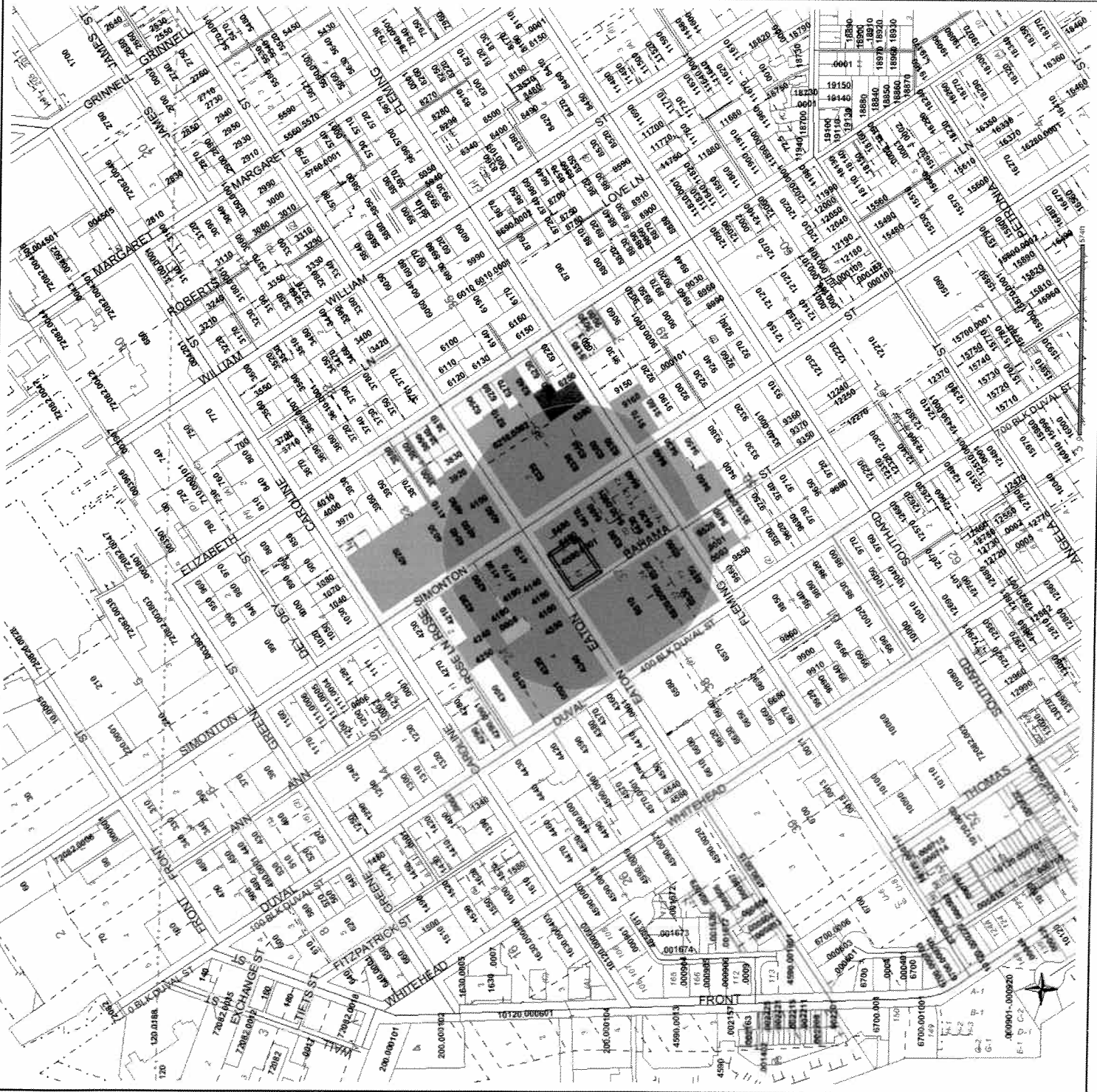
- Legend**
- theBuffer
 - theBufferTarget
 - Real Estate Number
 - Parcel Lot Text
 - Block Text
 - Hooks/Leads
 - Lot Lines
 - Easements
 - Road Centerlines
 - Water Names
 - Parcels
 - Shoreline
 - Section Lines

PALMIS

Monroe County Property Appraiser
500 Whitehead Street
Key West, FL

DISCLAIMER: The Monroe County Property Appraiser's office maintains data on property within the County solely for the purpose of fulfilling its responsibility to secure a just valuation for ad valorem tax purposes of all property within the County. The Monroe County Property Appraiser's office cannot guarantee its accuracy for any other purpose. Likewise, data provided regarding one tax year may not be applicable in prior or subsequent years. By requesting such data, you hereby understand and agree that the data is intended for *ad valorem tax purposes* only and should not be relied on for any other purpose.

Date Created: December 6, 2010 3:36 PM



FELLING MICHAEL
11199 OVERSEAS HWY
MARATHON, FL 33050

329 DUVAL ASSOCIATES LLC
1210 STIRLING RD
DANIA, FL 33004

DEAN DONNA LOUISE REV TRUST
14 W CYPRESS TER
KEY WEST, FL 33040

MCKENZIE JOHN P
1400 VIRGINIA ST
KEY WEST, FL 33040

BCP LLC
1409 SUN TER
KEY WEST, FL 33040

FAVELLI GEORGEANN M
1523 PATRICIA ST
KEY WEST, FL 33040

BREDIN JONATHAN B AND JULIA M
1700 NE TUDOR RD
LEES SUMMIT, MO 64086

UNITED STATES OF AMERICA
1776 PEACHTREE ST NW
ATLANTA, GA 30309

PELTIER MICHAEL JOSEPH
2420 ANDALUSIS WAY NE
ST PETERSBURG, FL 33704

STEWART JOHN MIKAEL
28238 AVENUE CROCKER
VALENCIA, CA 91355

KEY WEST WOMANS CLUB
319 DUVAL STREET
KEY WEST, FL 33040

MOLONEY SUE CLAY
320 SIMONTON ST
KEY WEST, FL 33040

MOLONEY SUSAN
320 SIMONTON ST
KEY WEST, FL 33040

THORESEN ERLING T
3235 MARY ST
MIAMI, FL 33133

SIMONTON COURT MANAGEMENT
CO
324 SIMONTON ST
KEY WEST, FL 33040

MOLONEY SUSAN
326 SIMONTON ST
KEY WEST, FL 33040

328 SIMONTON STREET LLC
328 SIMONTON ST
KEY WEST, FL 33040

CHENG YUK
3327 RIVIERA DR
KEY WEST, FL 33040

FULTON K AND E LLC
35 CROSBY ST
NEW YORK, NY 10013

TOWNSHEND ROBERT WILLIAM
ESTATE
3529 SUNRISE DR
KEY WEST, FL 33040

MORGAN GERALD
3825 DUCK AVE
KEY WEST, FL 33040

SANTIAGO DENISE B
405 FLEMING ST
KEY WEST, FL 33040

FIRST UNITED METHODIST CHURCH
411 SIMONTON STREET PO BOX 669
KEY WEST, FL 33040

KEPHART LYNN H
414 SIMONTON ST
KEY WEST, FL 33040

CARLOUGH WILLIAM ARTHUR REV
TR AGREE 9/26/03
417 SIMONTON ST
KEY WEST, FL 33040

FLORIDA KEYS FUNERAL SERVICES
LLC
418 SIMONTON ST
KEY WEST, FL 33040

333 SIMONTON ST LLC
46 SOUTH BEACH DR
NORWALK, CT 06853

NILES FAMILY LIVING TRUST
10/28/2002
4768 CAPE MAY AVE
SAN DIEGO, CA 92107

RAPPAPORT ROBERT
5 EVERGREEN AVE
KEY WEST, FL 33040

SPOTTSWOOD PARTNERS II LTD
500 FLEMING ST
KEY WEST, FL 33040

YENTSCH CHARLES S AND CLARICE
M
504 BAHAMA ST
KEY WEST, FL 33040

ONDERDONK GARY R AND DIANE M
513 FLEMING ST
KEY WEST, FL 33040

TANNER PARTNERS LLLP
516 FLEMING ST
KEY WEST, FL 33040

THOULOZE MICHEL
520 SOUTHARD ST
KEY WEST, FL 33040

DELAUNE ROBERT L
520 WILLIAM ST
KEY WEST, FL 33040

FAUSTO'S FOOD PALACE INC
522 FLEMING ST
KEY WEST, FL 33040

PILOT HOUSE LLC
524 EATON ST
KEY WEST, FL 33040

WEAVER W TIMOTHY
526 ROSE LN
KEY WEST, FL 33040

PISCHKE RICHARD AND JULIA L
527 FLEMING ST
KEY WEST, FL 33040

CARRIAGE TRADE LIVING TRUST
10/22/2009
529 EATON ST
KEY WEST, FL 33040

TOMITA GERALDINE
531 FLEMING ST
KEY WEST, FL 33040

EZMIRLY D SHIRLEE REV INTER
VIVOS TR
532 FLEMING ST
KEY WEST, FL 33040

ARTIST HOUSE LLC
534 EATON ST
KEY WEST, FL 33040

INTER-OCEAN HOLDINGS INC
600 FLEMING ST
KEY WEST, FL 33040

YATES DONALD AND KATHRYN
611 EATON ST
KEY WEST, FL 33040

TEMPEL DENISON
613 EATON ST
KEY WEST, FL 33040

PERRY LINCOLN AND BEATTIE ANN
614 FLEMING ST
KEY WEST, FL 33040

NEWHOUSE GREGORY L
616 EATON ST
KEY WEST, FL 33040

SZOT WALTER AND DAWN
617 FLEMING ST
KEY WEST, FL 33040

VAGNONI MICHAEL P
622 FLEMING ST
KEY WEST, FL 33040

TROMBLE RICK A AND MICHELE L
6310 MANASOTA KEY RD
ENGLEWOOD, FL 34223

CORLEY LUCY CLAY MOLONEY
66 WESTWIND RD
LOUISVILLE, KY 40207

WHITE J LARRY
685 EAST LONG LAKE
BLOOMFIELD HILLS, MI 48304

SCHULTZ ROBERT AND MARY
LYNNE
703 ARUNDEL PLACE
ANNAPOLIS, MD 21401

POLATZ JOHN J AND SUSAN E
719 FLEMING ST
KEY WEST, FL 33040

UNITED STATES
77 FORSYTH ST
ATLANTA, GA 30303

COOPER LAND TRUST 12/26/1990
7705 NW 48TH ST
MIAMI, FL 33166

BABY CHEAPEES LLC
820 WHITE ST
KEY WEST, FL 33040

ARGOUEDELIS JAMES
9026 RIDGE RD
PLAINFIELD, IL 60544

HAWKINS RICHARD J
P O BOX 106
KEY WEST, FL 33040

LOWE ROBERTA B
P O BOX 268
KEY WEST, FL 33041

KAVOURA DIMITRI
P O BOX 308
KEY WEST, FL 33040

WONG SONG ENTERPRISES INC
P O BOX 4870
KEY WEST, FL 33040

CARR JOE ALAN & REAMS CLAUDE
E JR R/S
P O BOX 6404
KEY WEST, FL 33041

ST PAULS CHURCH
PO BOX 1014
KEY WEST, FL 33041

SCOTTISH RITE TEMPLE
ASSOCIATION
PO BOX 1247
KEY WEST, FL 33040

WOLKOWSKY DAVID W LIVING
TRUST
PO BOX 1429
KEY WEST, FL 33041

GAMBRILL MATTHEW
PO BOX 157
SOLOMONS, MD 20688

MCCLLOUD STEVEN W
PO BOX 1642
KEY WEST, FL 33041

SZOT WALTER S AND DAWN
PO BOX 208
MECHANICSVILLE, MD 20659

BLACKWELL CAROLYN A
PO BOX 4125
KEY WEST, FL 33041

DAVIDSON JUDITH H
PO BOX 4210
KEY WEST, FL 33041

MOLONEY SUE CLAY
PO BOX 50
KEY WEST, FL 33041

DADE LODGE NO 14 FREE AND
ACCEPTED MASONS
PO BOX 608
KEY WEST, FL 33040

FEDERAL NATIONAL MORTGAGE
ASSOCIATION
PO BOX 650043
DALLAS, TX 75265