

**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 I

Meeting Date: January 21st, 2021

Application: Transient License Transfer – One (1) license in Unassigned Status to 536 Fleming Street (RE# 00009440-000000) – A request to transfer one (1) transient license in unassigned status at Key Cove Drive to property located within the Historic Neighborhood Commercial (HNC-1) zoning district pursuant to Sections 122-776 and 122-1338 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 in unassigned status owned by Key Cove LLC to 536 Fleming Street in the HNC-1 zoning district. The HNC-1 zoning district allows transient living accommodations as long as there is no displacement nor on-site reduction in housing units for permanent residents.

Applicant: Richard McChesney

Property Owner: Spottswood Partners, LTD

Location: 536 Fleming Street (RE# 00009440-000000)



Background:

The transient license currently in unassigned status owned by Key Cove LLC was previously associated with the property located at 1213 Georgia Street, #2. The license was issued on 1/13/2020 to Key Cove Landings LLC with no restrictions. The applicant is seeking approval to transfer the transient license from unassigned status to a receiver site at 536 Fleming Street. The proposed receiver site is currently a mixed-use property that has retail on the ground floor and a non-transient residential unit on the second floor and a non-transient residential unit on the third floor.

Site Data		
	Sender Site	Receiver Site
License Owner	Key Cove Landings LLC	Spotswood Partners, LLC
Property Owner	N/A – Unassigned	Spotswood Partners, LLC
Location	N/A – Unassigned	536 Fleming Street
Real Estate Number	N/A – Unassigned	00009440-000000
Zoning District	N/A – Unassigned	HNC-1

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 a transient license in unassigned status to the receiver site will convert a permanent resident unit to a transient unit. A transient license in unassigned status means that a license has been lifted from one property and has not been assigned to any address. The transient license in unassigned status was transferred from 1213 Georgia St. Unit 2 to unassigned status by Key Cove LLC.

As required by Code, criteria outlined in Section 122-1339, *Transfer of transient business tax receipt*, have been reviewed for this application, as has the suitability of the zoning district of the sender site, in Section 122-776(b) *Historic Neighborhood Commercial Intent*, and Subsection II. HNC-1, Section 122-807 *Uses permitted*. This application conflicts with provisions of all three above referenced sections of Code, in that the proposed transient license and use will displace an on-site housing unit for permanent residents, as further explained in the Staff Analysis section below.

In addition, the proposed license transfer is not consistent with adopted components of the City of Key West’s Comprehensive Plan. Policy 1-1.1.9 of the Comprehensive Plan of the City of Key West states, “Within HNC areas redevelopment or conversion of permanent housing structures to transient residential . . . office, or other allowable commercial uses shall be permitted only if no on-site reduction in housing units for permanent residents occurs.”

The Glossary of Terms in the Comprehensive Plan states that a structure is anything constructed, either movable or permanent, that can be used for housing and other purposes. The Policy in 1-1.1.9 refers to “permanent housing structures”, such as what is currently in existence at the receiver site at 536 Fleming Street. The permanent housing structure at 536 Fleming can only be converted to transient residential if no on-site reduction of housing units for permanent residents occur. The *housing units* at 536 Fleming are historical housing units that are licensed for non-transient permanent residents. The conversion of the permanent housing structure at 536 Fleming Street to a transient residential unit would reduce housing units for permanent residents and would not be consistent with the Comprehensive Plan nor the Land Development Regulations.

The preservation of historically significant housing is further noted in Comprehensive Plan Objective 3-

1.5, "Housing resources identified as historically significant shall be preserved and protected for residential uses." Preservation of housing stock, in general, is noted in other objectives and policies in the Comprehensive Plan Housing Element and in ordinances in the Land Development Regulations.

Staff Analysis - Evaluation:

The subject receiver parcel is located in the HNC-1 zoning district, which allows for transient use on the condition that it does not displace permanent residents. The transient license transfer of one license from unassigned status to 536 Fleming Street does not meet the standards for a transfer of transient license per City Code. Section 122-1339 of the city code references the transfer of transient licenses. The Planning Board, before granting the transfer of a transient licenses, must find the following criteria to be true.

(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, 536 Fleming, is located in the HNC-1 zoning district that prohibits any loss in housing for permanent residents. The Transient Rental Transfer Location map created by the Planning Department in 2004 shows 536 Fleming in the "Permitted only when no on-site displacement of permanent housing occurs". In 2004, permanent housing was synonymous with permanent residents, and did not reference affordable housing. The Comprehensive Plan Policy 1-1.1.9 and Section 122-776 (b) of the Land Development Regulations, both state that no on-site reduction in housing units for permanent residents is permitted in any HNC district. Objective 3-1.7 of the comprehensive plan states that the city shall try to conserve neighborhood quality by the enforcement of our codes. The removal of a permanent housing unit and a permanent resident at the receiver site contradicts the city's comprehensive plan and our LDRs. The community would lose a permanent residential unit and receive a transient rental property.

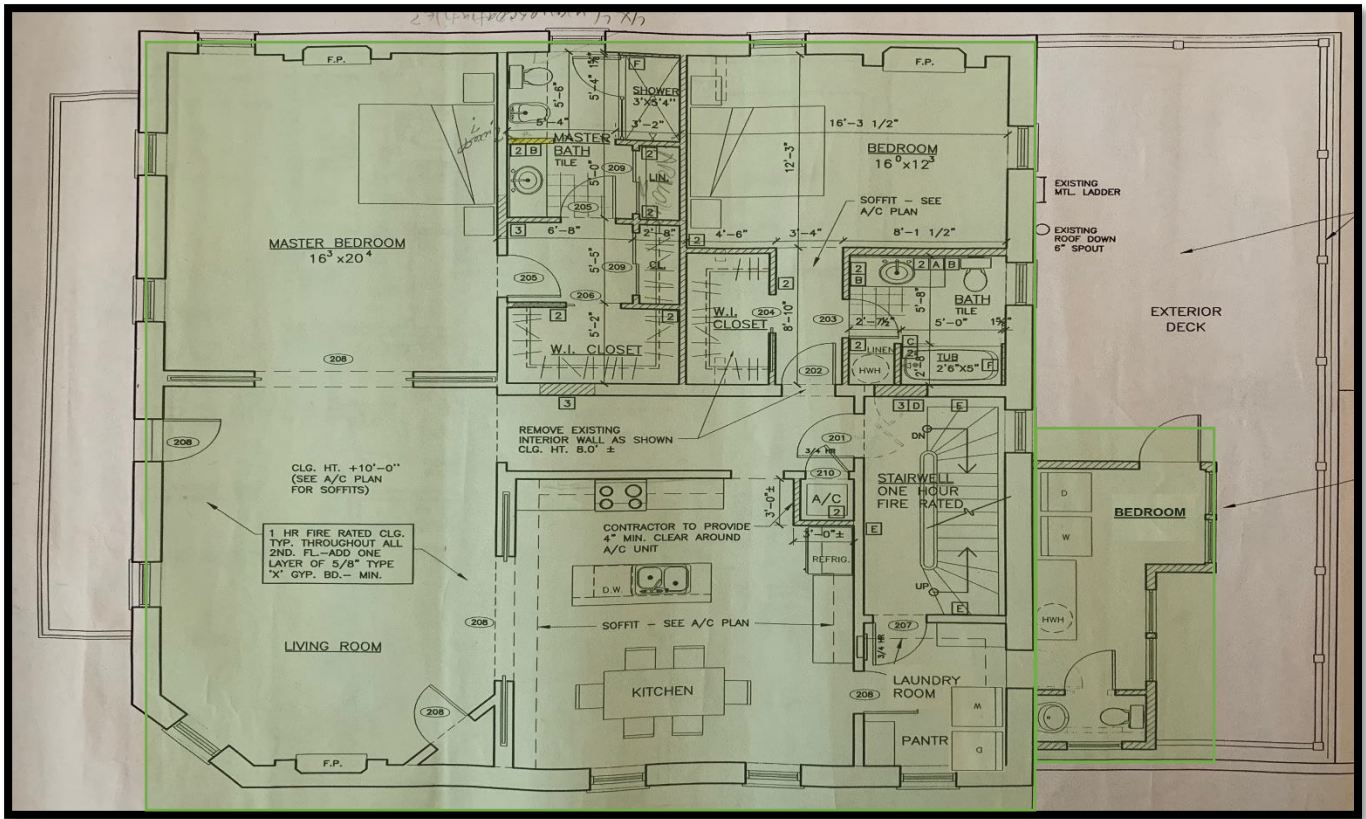
(b) Where a license alone is transferred, the planning board shall consider whether the receiver site is suitable for transient use in the zoning district, shall consider the relative size of the unit from which the license is transferred, and shall consider the room configuration of both sites to maintain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

1. 536 Fleming is a historic building constructed in the 1800s and contains two historic housing units in the HNC-1 zoning district. This zoning district does not allow the conversion of these permanent housing units to transient units. The large single-family unit at 536 Fleming is approximately 1,900 square feet with three bedrooms, a bathroom, kitchen, laundry area, living room, and balcony overlooking Simonton Street. Any proposed exterior alteration of a historical contributing structure located in the historic district shall be subject to HARC review. The 1,900 sq.ft. dwelling unit at 536 Fleming in the submitted site plans has three bathrooms and three bedrooms which could reasonably accommodate six or more individuals or a large single family.

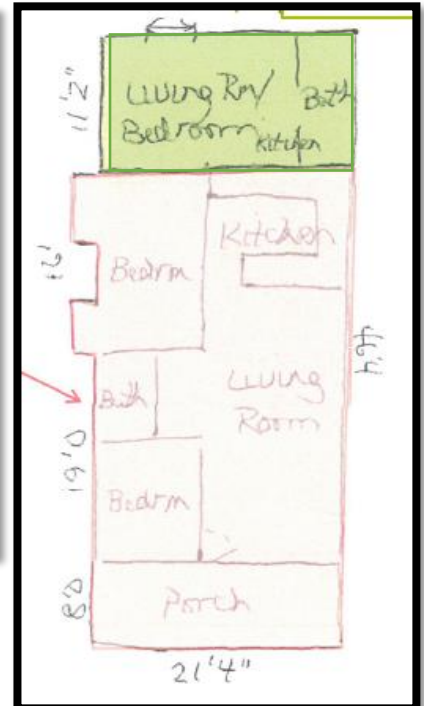
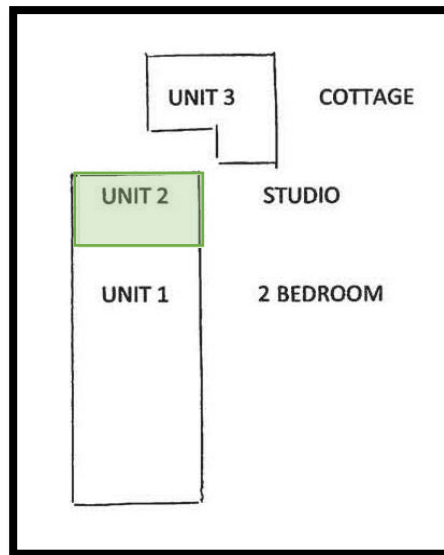
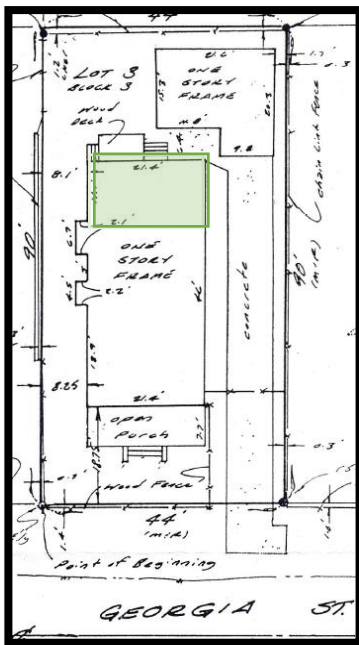
2. The subject transient license in unassigned status was transferred from 1213 Georgia St Unit 2. The license from Unit 2 was transferred to unassigned status by Key Cove LLC. The property at 1213 Georgia St. Unit 2 is an approximately 238 square-foot studio. The

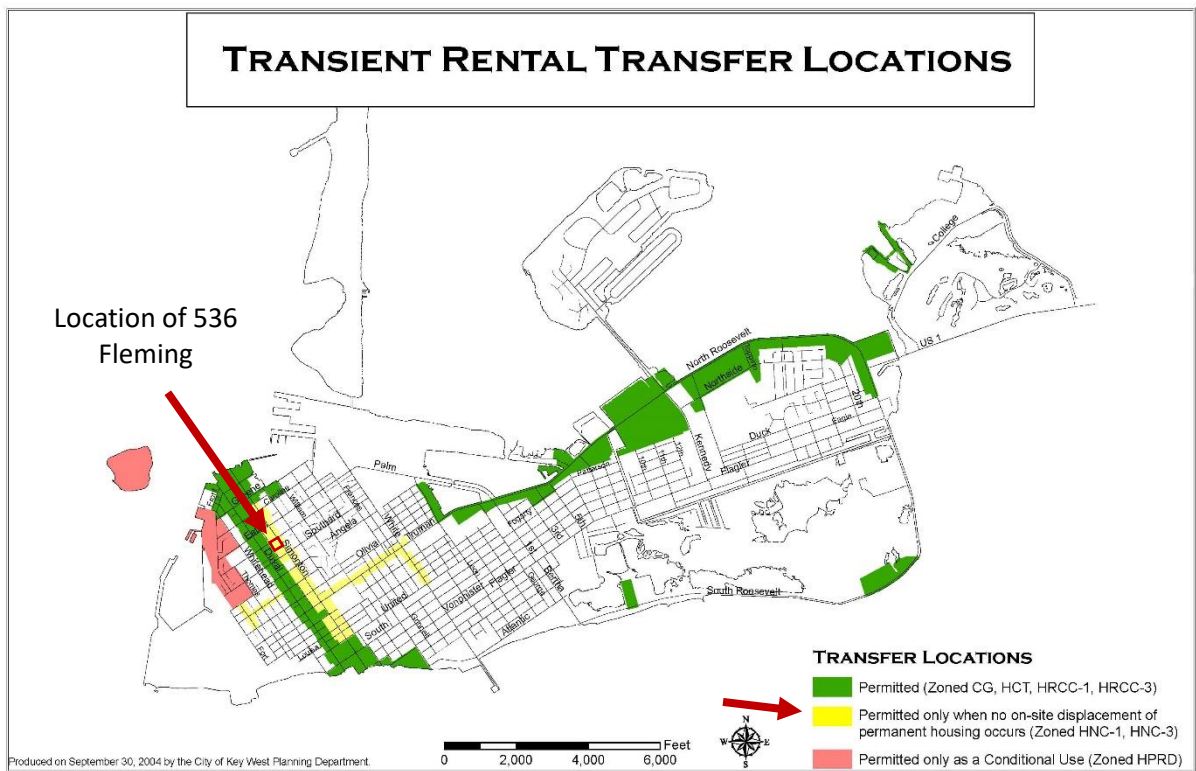
proposed receiver site is 1,662 sq.ft., or 88% larger than the proposed sender site. As seen below, the unit consisted of one room and a bathroom. The 238 sq.ft. studio at 1213 Georgia St. can reasonably accommodate a single individual.

536 Fleming Street, Site Plan, 2020



1213 Georgia St. Unit 2, Site Plan 2019





Section 122-1342 allows the Planning Board to consider this application in spite of the differences in size, scale, and layouts. The Planning Department and the applicant are in agreement that this section allows the Planning Board the option to allow the application if the application complies with Section 122-1339 (a). The property has been a mixed-use building with two single family units since at least 1995.

Recommendation:

Both the Comprehensive Plan and the Land Development Regulations state that the replacement of permanent housing structures to transient residential uses shall be permitted only if no on-site reduction in housing units for permanent residents occurs. The applicant proposes that one historic housing unit be converted to a transient residential use which will create a reduction in housing units for permanent residents. The applicant’s proposal is in direct contradiction with both the Comprehensive Plan and the Land Development Regulations. The applicable code criteria require the Planning Board to consider the relative size of the unit and room configuration from which the license is transferred. The license in unassigned status was transferred from 1213 Georgia St. Unit 2, which was a one room, 238 square-foot studio. The receiver site is nearly 88% larger than the unit from the 1213 Georgia unit with three bedrooms, three bathrooms and approximately 1,900 square-feet. Historically, the Planning Board has required that the sender site be similar in size and scale to the receiver site in order to be approved. As such, if 536 Fleming were eligible for transient use, it would need more than one license from a 238 sq.ft. studio.

The proposed transfer of one (1) transient license in unassigned status owned by Key Cove LLC to 536 Fleming Street is inconsistent with the HNC zoning district guidelines listed in the Comprehensive Plan and the Land Development Regulations. Based on a review of the application according to the stringent evaluation criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for a transfer of transient license be **DENIED**.

If the Planning Board chooses to approve, the Planning Department requests approval with the following conditions:

1. Additional transient license(s) be added to the application to comply with City Code