



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

To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Vanessa Sellers, Planner I

Meeting Date: July 19, 2018

Agenda Item: **Transient Unit/License Transfer – Unit/License in Unassigned Status (formerly 3591 S. Roosevelt Blvd) (RE # 00054350-000000, AK # 1054968) to 805 Shavers Lane (RE # 00017000-000000, AK # 1017418) – a request to transfer one transient unit and license from a unit/license in unassigned status to property located within the Historic Residential Commercial Core – 3 Duval Street Oceanside (HRCC-3) Zoning District pursuant to Section 122-1338 and 122-1339 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida**

SITE DATA:		
	Sender Site	Receiver Site
License Owner:	Maximus Properties, LLC	805 Shavers Rental, LLC
Property Owner:	N/A - Unassigned	805 Shavers Rental, LLC
Agent:	Gregory S. Oropeza, Esq.	Gregory S. Oropeza, Esq.
Location:	Unassigned	805 Shavers Lane
Real Estate (RE) Number:	N/A – Unassigned	00017000-000000
Zoning District:	N/A – Unassigned	HRCC-3
Existing Use:	N/A – Unassigned	Single-family non-transient dwelling
Proposed Use:	N/A – Unassigned	Single-family transient dwelling



Background:

The subject transient unit/license is currently in an unassigned status. Planning Board Resolution no. 2015-23 (attached) dissolved previously approved Planning Board Resolutions 2005-40 and 2006-19 that transferred units to a property located at 3591 South Roosevelt Boulevard for a development that was never constructed. The result of Resolution no. 2015-23 was the recognition of three (3) transient units with licenses unassigned to any sender site. The former owner Hyatt & Hyatt sold and transferred the units and licenses to the current owner Maximus Properties, LLC on May 2, 2016. The current owner of the licenses retains ownership in an unassigned status. The owner seeks to transfer one transient unit/license to a location where transient use is permitted.

The receiver site at 805 Shavers Lane currently consists of one (1) non-transient residential unit. The property is located in the Historic Residential Commercial Core Duval Street Oceanside (HRCC-3) zoning district in which transient residential is a permitted use. The applicant is proposing to remove the non-transient residential unit from 805 Shavers Lane, and replace it with a transient unit and license.

Relevant Code Sections:

The purpose of City Code Chapter 122, Article V, Division 6 “Transient Units” outlined in Section 122-1336 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 Building Permit Allocation System (BPAS) that limits the allowable number of residential and transient units.

City Code Section 122-1338. Transfer of transient units.

- (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.
- (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.

- (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.
- (4) The transferred units shall not operate to increase density of the receiver site above the maximum allowed density.
- (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.
- (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.
- (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.
- (8) Existing nonconforming buildings may receive units providing their nonconforming aspects are not increased.
- (9) Development plans for both sites shall be processed as provided in the LDRs, according to the magnitude and type of development.
- (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.

City Code Section 122-1339 (a) states that a business tax receipt (e.g., license) 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 does not allow a loss of affordable housing at the receiver site.

City Code Section 122-1339 (b) states that 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.

City Code Section 122-1340. Development review committee and planning board review.

The development review committee (DRC) shall review each application for transfer. The planning board will receive comments from the DRC and the recommendation of the planning department and may deny an application on the grounds of inconsistency with the purpose of the ordinance or a violation of the specific provisions of the ordinance. When approving an application, the planning board may impose conditions, including but not limited to: physical modifications and the filing of deed restrictions, in order to assure the continuation of permanent residential housing, the preservation of community character and that the transfer advances the purposes of this division. The decision of the planning board shall be final.

Analysis:

The proposed transient unit/license transfer involves the transfer of a transient unit. The receiver site at 805 Shavers Lane has one existing dwelling unit.

The existing use of the receiver site unit at 805 Shavers Lane is non-transient residential. The proposed transfer would not result in a loss of affordable housing because there is no existing deed-restricted affordable housing at the receiver site.

The following table summarizes the applicable approval criteria for the transfer of a transient unit pursuant to City Code **Section 122-1338**.

Criteria:	Proposal:	Complies? (Yes or No)
Sender Site		
Has transient license from the City	Unassigned transient rental unit license number 18-31971	Yes
The unit is lawful and has been counted in the BPAS	The unit was in existence on or before April 2010 and would have been counted	Yes
Remaining number of rooms to same / does not increase BPAS count	The unassigned license allows for up to three bedrooms, and the receiver site is three bedrooms	Yes
Final use conforms with the LDRs	The transfer would place the license in assigned status at a location that permits transient use	Yes
Development review process required for proposed construction / redevelopment	There is no proposed construction or redevelopment at this time	Yes
Receiver Site		
Transient use is allowed or the use is residential	Transient use is allowed in the HRCC-3 zoning district	Yes

Criteria:	Proposal:	Complies? (Yes or No)
Complies with density	Allowed density for this property is 1 unit, however, the applicant will remove the non-transient unit and replace it with the transient unit.	Yes
The transient units retain BPAS equivalency	The license and unit will be transferred as 0.86 ESFU	Yes
New construction is not located with the "V" zone	The property is located in the X-flood zone	Yes
Homeowners or Condo Association has approved	N/A. No association exists.	Yes
Transient units may not exceed two rooms in size, excluding bathrooms	The receiver site is three bedrooms and two bathrooms, however, Resolution 2015-23 conditioned the future development of the transient unit not exceed three bedrooms	Yes

The following table summarizes the applicable approval criteria for a transient business tax receipt transfer pursuant to City Code **Section 122-1339**:

	Analysis	Complies? (Yes or No)
Transient license transfer from an area where transient uses are prohibited	N/A – Unassigned	N/A
Transient license transfer from HNC-1 and HNC-3 Zoning Districts	N/A	N/A
Transfer would not result in a loss of affordable housing at the receiver site	No existing deed-restricted affordable housing at the receiver site.	Yes
(b) Where a license alone is transferred:		
Receiver site suitable for transient use	Receiver site zoning is HRCC-3, which permits transient uses.	Yes
Relative size of the unit from which the licenses are transferred	N/A – Unassigned	N/A
Room configuration of both sites to maintain approximately the same or less net number of occupants	Resolution 2015-23 states, in part, the future development shall not exceed three bedrooms. The receiver site has three bedrooms.	Yes

Recommendation:

Based on the above analysis of the standards for considering transfers of transient units and transient business tax receipts in Section 122-1338 and 122-1339 of the Land Development Regulations, the Planning Department recommends the request to transfer one transient unit and associated business tax receipt from unassigned status to 805 Shavers Lane be **APPROVED** with the following conditions:

1. The existing non-transient residential unit at 805 Shavers Lane will be recaptured by the City through a waiver and release of building permit allocation and shall be recorded and dedicated for beneficial use only, pursuant to Section 122-999.
2. All requirements of City Code Section 122-1371 shall be met for the transient use of the residential dwelling unit at 805 Shavers Lane.
3. The structure proposed to be used on a transient basis shall comply with all applicable codes and requirements of the Building Department, Fire Department, and all other regulatory agencies.
4. The owner shall obtain and maintain a Conditional Approval Permit, pursuant to City Code Chapter 18, Article XII, Division 1. The City Code Compliance shall inspect the property on an annual basis upon reasonable notice to determine compliance with the conditions of the Planning Board resolution.