



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

**To:** Chairman and Planning Board Members

**Through:** Roy Bishop, Planning Director

**From:** Vanessa Sellers, Planner II

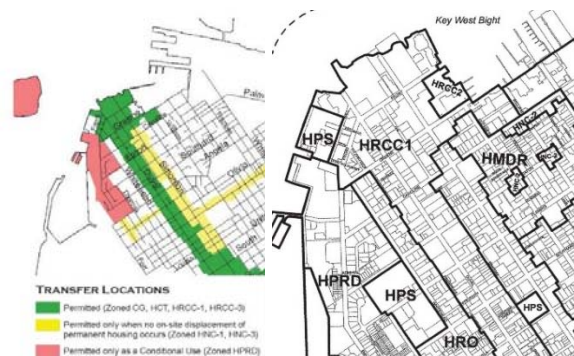
**Meeting Date:** September 19, 2019

**Agenda Item:** **Transient Unit/License Transfer – Two Units & Licenses in unassigned status to 601 Duval Street (Units 203 and 204) (RE# 00012290-000000)**  
- A request to transfer two transient units & licenses in unassigned status to property located within the Historic Residential Commercial Core Duval Street Gulfside (HRCC-1) zoning district pursuant to the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**Sender and Receiver Site Data Table:**

	<b>Sender Site</b>	<b>Receiver Site</b>
<b>License Owner:</b>	Simonton 501 LLC & Simonton 404 LLC	KW Zion LLC
<b>Property Owner:</b>	Not applicable (Unassigned)	KW Zion LLC
<b>Agent:</b>	Susan M. Cardenas of Oropeza, Stones, & Cardenas	Susan M. Cardenas of Oropeza, Stones, & Cardenas
<b>Location:</b>	Not applicable (Unassigned)	601 Duval Street
<b>Real Estate Number:</b>	Not applicable (Unassigned)	00012290-000000
<b>Zoning District:</b>	Not applicable (Unassigned)	HRCC-1
<b>Existing Use:</b>	Not applicable (Unassigned)	Two non-transient residential apartments
<b>Proposed Use:</b>	Not applicable (Unassigned)	Two transient residential apartments

**Proposed Receiver Site:**



*Images of a portion of the Transient Rental Transfer Location map and the Official Zoning Map of the City of Key West with the subject property indicated as a permitted area for transfer and within the HRCC-1 zoning district.*

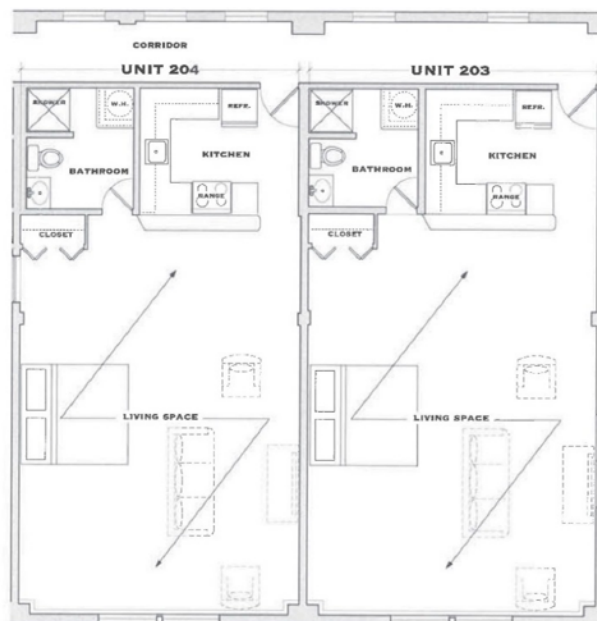


*Image of an aerial of the subject property and neighboring properties.*

### **Background:**

Prior to the current unassigned status, license numbers 2019-454 and 2019-046 were assigned to a property at 710 Caroline Street. On April 19, 2007, the planning board passed resolution no. 2007-009 approving an application for the transfer of the two full units and transient licenses from 710 Caroline Street to a receiver site at 119-135 Simonton Street. However, the transfer was not completed, and the two units and two licenses were placed into unassigned status on August 12, 2008 and have remained there ever since.

The applicant is proposing to transfer the two units and licenses from unassigned status to a receiver site at 601 Duval Street (504-506 Southard Street), Unit 203 and Unit 204. Each unit is a studio apartment with one room that combines the living and sleeping space. Each features a separate bath and a kitchen with full size appliances (see floor plan below).



*Image of the floor plans for Unit 203 and Unit 204.*

## **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 two transient units and licenses. The proposed receiver sites located at 601 Duval Street Unit 203 and Unit 204 each has one existing non-transient dwelling unit.

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

Table 1

<b>Criteria:</b>	<b>Proposal:</b>	<b>Complies?</b>
<b>Sender Site</b>		
Has transient license from the City	Transient rental licenses #454 & #456	Yes.
The unit is lawful and has been counted in the BPAS	The two units were in existence on or before April 2010 and would have been counted.	Yes.
Remaining number of rooms to same / does not increase BPAS count	Not applicable. The licenses are in an unassigned status.	Yes.
Final use conforms with the LDRs	The transfer would place the two licenses in assigned status at a location that permits transient use. Transient lodging is a permitted use of the HRCC-1 zoning district.	Yes.
Development review process required for proposed construction / redevelopment	There is no proposed construction or redevelopment at this time.	Yes.
<b>Receiver Site</b>		
Transient use is allowed, or the use is residential	Transient lodging is a permitted use of the HRCC-1 zoning district.	Yes.
Complies with density	Maximum allowable density for this property is 2.58.	No. However, the applicant proposes to lift 2 existing non-transient units and revert them back to the City.
The transient units retain BPAS equivalency	The licenses and units will be transferred as 0.86 ESFU.	Yes.
New construction is not located with the “V” zone	There is no proposed construction or redevelopment at this time. In addition, the properties are located within an X-zone (an area of minimal flood hazard).	Yes.
Homeowners or Condo Association has approved	Not applicable. No association exists.	Yes.
Transient units may not exceed two rooms in size, excluding bathrooms	Each of the two receiver sites is a studio apartment with one room that combines the living and sleeping space. Each features a separate bath and kitchen with full size appliances.	Yes.

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

- (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.

Table 2

	<b>Analysis</b>	<b>Complies?</b>
Transient license transfer from an area where transient uses are prohibited	Not applicable. The proposed transfer includes the transfer of a unit.	Not applicable.
Transient license transfer from HNC-1 and HNC-3 zoning districts	Not applicable. The proposed transfer includes the transfer of a unit.	Not applicable.
Transfer would not result in a loss of affordable housing at the receiver site	Not applicable. The proposed transfer includes the transfer of a unit.	Not applicable.

(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.

Table 3

Receiver site suitable for transient use	Not applicable. The proposed transfer includes the transfer of a unit.	Not applicable.
Relative size of the unit from which the licenses are transferred	Not applicable. The proposed transfer includes the transfer of a unit.	Not applicable.
Room configuration of both sites to maintain approximately the same or less net number of occupants	Not applicable. The proposed transfer includes the transfer of a unit.	Not applicable.

**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 LDRs, the Planning Department recommends the request to transfer two transient units and associated business tax receipts from unassigned status to 601 Duval Street Unit 203 and Unit 204 be **approved** with the following conditions:

1. The two existing non-transient residential units at 601 Duval Street Unit 203 and Unit 204 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 units at 601 Duval Street Unit 203 and Unit 204.
3. The units 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. Neither unit may undergo a renovation or remodel that would increase the number of bedrooms.
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 properties on an annual basis upon reasonable notice to determine compliance with the conditions of the Planning Board resolution.