

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

To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Vanessa Sellers, Planner II

Meeting Date: April 18, 2019

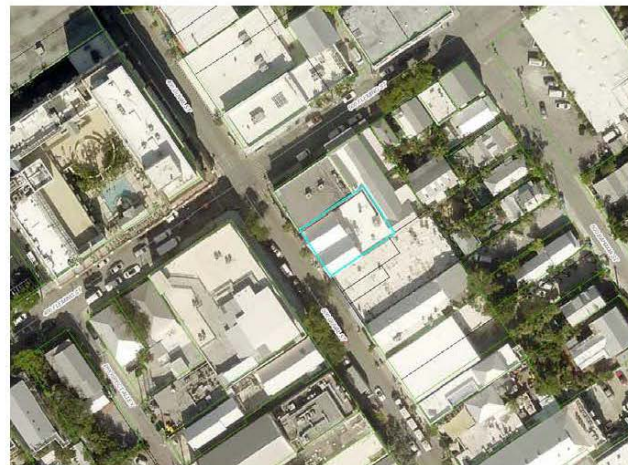
Agenda Item: **Transient Unit/License Transfer – Two (2) Units & Licenses in Unassigned Status (formerly 417 Eaton Street) to 503 – 505 Duval Street (RE # 00009570-000000, AK # 1009831)** – a request to transfer two transient units and licenses in unassigned status to property located within the Historic Residential Commercial Core – 1 Duval Street Gulfside (HRCC-1) Zoning District pursuant to Chapter 122, Article V, Division 6 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:	Seaside Hospitality Corp	Spottswood Partners II LTD
Property Owner:	N/A - Unassigned	Spottswood Partners II LTD
Agent:	Richard McChesney	Richard McChesney
Location:	N/A – Unassigned	503-505 Duval Street
Real Estate Number:	N/A – Unassigned	00009570-000000
Zoning District:	N/A – Unassigned	Historic Residential Commercial Core (HRCC-1)
Existing Use:	N/A – Unassigned	1 single-family non-transient dwelling & 3 commercial units
Proposed Use:	N/A – Unassigned	2 single-family transient dwellings & 2 commercial units

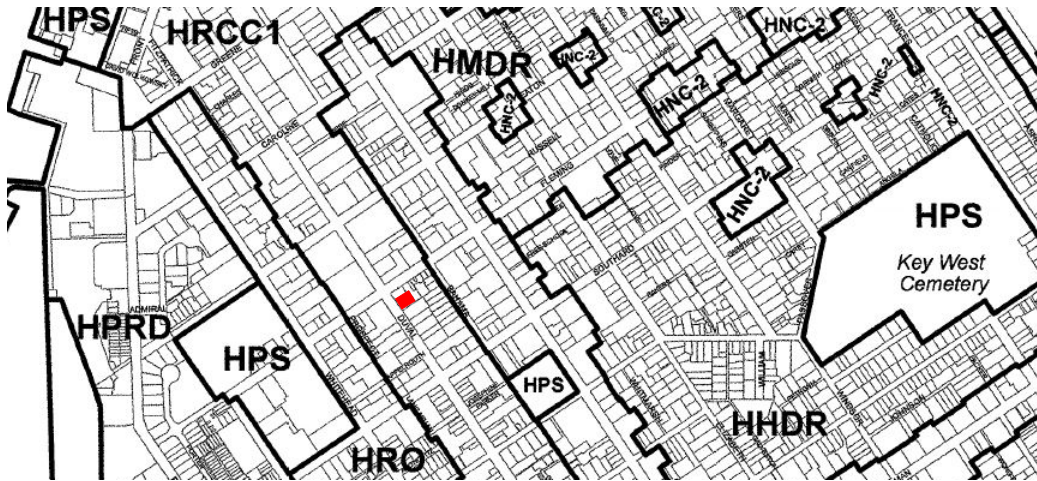
Proposed Receiver Site



- TRANSFER LOCATIONS**
- Permitted (Zoned CG, HCT, HRCC-1, HRCC-3)
 - Permitted only when no on-site displacement of permanent housing occurs (Zoned HNC-1, HNC-3)
 - Permitted only as a Conditional Use (Zoned HPRD)



Proposed Receiver Site on the Official Zoning Map of the City of Key West



Background:

The subject transient units and licenses are currently in an unassigned location status. The units and licenses originated from the Saint Hotel at 417 Eaton Street which is located within the HRCC-1 zoning district. A major development plan to demolish and replace two noncontributing hotel structures and renovate a contributing structure from office use to hotel use was approved by the City Commission on February 5, 2008. At that time, the hotel had thirty-eight (38) rooms of various sizes. In 2017, the hotel reduced the number of rooms to thirty-six (36). The two (2) excess units and licenses then went into an unassigned status.

The receiver site at 503-505 Duval Street is a 2-1/2 story mixed-use property. A portion of the property at 503 Duval Street consists of commercial use on the first floor. The second and third floors are set up for residential use, however, the city does not recognize a dwelling unit at that address. In addition, there are no active licenses attached to that address (503 Duval Street – Up). A portion of the property at 505 Duval Street also consists of commercial use on the first floor. The second and third floors are currently a 2-story, 2-bedroom, non-transient residential dwelling unit.

The following table summarizes the existing uses:

License No.	Business Name	Description	Comments
<i>503 Duval Street (Down):</i>			
14385	Crazy Shirts	Retail establishment 501-2000 SF	Retail clothing embroidered and silkscreen T's
<i>505 Duval Street (Down):</i>			
26269	Kilwin's	Catering or restaurant with 0 seats	(none)
<i>505 Duval Street (Up):</i>			
25807	Spottswood Partners II, LTD	Non-transient residential	One non-transient rental unit

The subject property is located in the Historic Residential Commercial Core Duval Street Gulfside (HRCC-1) zoning district in which transient residential is a permitted use. The applicant is proposing to lift the non-transient residential unit from 505 Duval Street (Up) and replace it with

a transient unit and license. The second transient license and unit will land at 503 Duval Street (Up), where no residential units are recognized by the City. The lifted non-transient unit will be recaptured by the City through a waiver and release of building permit allocation and will be recorded and dedicated for beneficial use only, pursuant to Section 108-999.

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. The receiver site at 503-505 Duval Street appears to have two (2) residential dwellings, however, the City only recognizes one residential dwelling.

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 (Unassigned)		
Has transient license from the City	Unassigned transient rental unit control numbers 32898 & 34123	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	A renovation of the Saint Hotel reduced the guest room count by two (2)	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 (503-505 Duval Street)		
Transient use is allowed, or the use is residential	Transient use is allowed in the HRCC-1 zoning district	Yes
Complies with density	Maximum allowable density for this property is two (2) dwelling units.	Yes
The transient units retain BPAS equivalency	Each of the two licenses and units will be transferred as 0.86 ESFU per unit	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 sites each have two bedrooms, one bathroom, and a living/cooking/eating area	Yes

*Section 86-9 of the City Code gives the following definition for the term *Transient unit or room*: any room accommodating beds, including conventional beds as well as sofa-beds, Murphy beds, or other types of beds with unique multipurpose or space-saving designs, which can be locked and keyed from the exterior of the premises or from a common hallway, foyer, or other common area and quarters for overnight lodging or for a longer period of time.

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.

	Analysis	Complies? (Yes or No)
Transient license transfer from an area where transient uses are prohibited	N/A – The proposed transfer includes the transfer of a unit.	N/A
Transient license transfer from HNC-1 and HNC-3 Zoning Districts	N/A – The proposed transfer includes the transfer of a unit.	N/A
Transfer would not result in a loss of affordable housing at the receiver site	N/A – The proposed transfer includes the transfer of a unit.	N/A

(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.

Receiver site suitable for transient use	N/A – The proposed transfer includes the transfer of a unit.	N/A
Relative size of the unit from which the licenses are transferred	N/A – The proposed transfer includes the transfer of a unit.	N/A
Room configuration of both sites to maintain approximately the same or less net number of occupants	N/A – The proposed transfer includes the transfer of a unit.	N/A

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 two transient units and associated business tax receipts from unassigned status to 503-505 Duval Street be **APPROVED** with the following conditions:

1. The existing non-transient residential unit at 505 Duval Street (Up) 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 503-505 Duval Street.

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. The units may not undergo a renovation or remodel that would increase the number of bedrooms.
4. Only the two (2) bedrooms in each unit may accommodate bed(s), including conventional beds as well as sofa-beds, Murphy beds, or other types of beds with unique multipurpose or space-saving designs.
5. 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, in particular, conditions number 3 and number 4.