

**PLANNING BOARD
RESOLUTION NO. 2019-___**

A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD GRANTING A CHANGE OF NONCONFORMING USE IN ORDER TO CHANGE THE USE FROM BUSINESS AND PROFESSIONAL RETAIL/OFFICE TO YOGA/MEDITATION FITNESS STUDIO WITH LOW-INTENSITY COMMERCIAL RETAIL ON PROPERTY LOCATED AT 612 FLEMING STREET (RE # 00009160-000000) IN THE HISTORIC MEDIUM DENSITY RESIDENTIAL (HMDR) ZONING DISTRICT PURSUANT TO SECTION 122-32(E) OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the applicant proposes to change the former nonconforming business and professional retail/office uses to a yoga/meditation fitness studio with low-intensity commercial retail used on property located at 612 Fleming Street (RE # 00009160-000000); and

WHEREAS, the property is located within the Historic Medium Density Residential (HMDR) Zoning District; and

WHEREAS, Section 122-32(e) of the Land Development Regulations (the “LDRs”) of the Code of Ordinances (the “Code”) of the City of Key West, Florida (the “City”) provides that a nonconforming use of a building or structure may be changed to another nonconforming use under certain findings of the Planning Board; and

WHEREAS, the new use is equally or more appropriate to the zoning district; and

WHEREAS, the change of use would not intensify the use of the premises by increasing the need for parking facilities; increasing vehicular traffic to the neighborhood; increasing noise, dust, fumes or other environmental hazards; or by having an adverse impact on drainage; and

WHEREAS, the Planning Board finds that the granting of the change of nonconforming use will be in harmony with the general intent and purpose of the land development regulations and that such variances will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.

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 a change of nonconforming use from the former business and professional retail/office uses to yoga/meditation fitness studio with low-intensity commercial retail uses is hereby granted on property located at 612 Fleming Street (RE # 00009160-000000) within the HMDR Zoning District pursuant to Section 122-32(e) of the City of Key West Land Development Regulations, subject to the following conditions:

1. The building and property shall be ADA accessible.
2. Certificates of Appropriateness shall be obtained for any new signage or other applicable work.
3. A business tax receipt shall be obtained, and any applicable impacts fees paid within 30 days of the effective date of the proposed resolution.

Section 3. Full, complete, and final application for all 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. The failure to fully and completely apply the conditions of approval for permits for use and occupancy pursuant to this change of nonconforming use in accordance with the terms of the approval as described in Section 3 hereof, shall immediately operate to terminate this change of nonconforming use, which change of nonconforming use shall be of no force or effect.

Section 5. This change of nonconforming use 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 6. 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 7. 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 Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period, the DEO 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 regularly scheduled meeting held this ____ day of _____, 2019.

Authenticated by the Chair of the Planning Board and the Planning Director;

_____ Chair
_____ Planning Director

Sam Holland, Planning Board Chair

Date

Attest:

Roy Bishop, Planning Director

Date

Filed with the Clerk:

Cheryl Smith, City Clerk

Date

_____ Chair

_____ Planning Director