

**PLANNING BOARD**

**RESOLUTION NO. 2026-\_\_\_\_\_**

**A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD DENYING A REQUEST FOR A CHANGE OF NONCONFORMING USE TO ALLOW A RESTAURANT WITH EIGHTEEN (18) INDOOR SEATS AT 600 WHITEHEAD STREET (RE# 00012901-000100) WITHIN THE HISTORIC RESIDENTIAL OFFICE (HRO) ZONING DISTRICT, PURSUANT TO SECTION 122-32 OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA.**

**WHEREAS**, the applicant, Owen Trepanier, on behalf of 600 Whitehead, LLC, has requested a change of nonconforming use to allow a restaurant with eighteen (18) indoor seats at property located at 600 Whitehead Street (RE# 00012901-000100); and

**WHEREAS**, the subject property is located within the Historic Residential Office (HRO) zoning district, where restaurant uses are not permitted except in designated areas; and

**WHEREAS**, the existing use of the property is a legal nonconforming restaurant use; and

**WHEREAS**, pursuant to Section 122-32(e) of the Land Development Regulations, a change of nonconforming use must involve a change from one nonconforming use to another nonconforming use that is less intensive and more compatible with the surrounding area; and

**WHEREAS**, the Planning Board finds that both the existing and proposed uses are restaurant uses within the same general use category and therefore do not constitute a valid change of nonconforming use as contemplated under Section 122-32(e); and

**WHEREAS**, the Planning Board further finds that the proposed addition of eighteen (18) indoor seats constitutes an expansion, enlargement, or intensification of a nonconforming use, which is prohibited pursuant to Section 122-32(d) of the Land Development Regulations; and

**WHEREAS**, the Planning Board finds that the proposed increase in seating would increase the intensity and operational scale of the nonconforming restaurant use; and

**WHEREAS**, the Planning Board finds that approval of the request would be inconsistent with the intent of the Historic Residential Office (HRO) zoning district, which is to limit commercial intensity and restrict restaurant uses to designated areas; and

**WHEREAS**, the City’s interpretation of Section 122-32(d) as prohibiting increases in seating within nonconforming restaurant uses has been upheld by the courts, affirming that such increases constitute prohibited intensification; and

**WHEREAS**, based on competent substantial evidence in the record, the Planning Board finds that the request is not consistent with the Land Development Regulations or the Comprehensive Plan.

**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 the request for a change of nonconforming use to allow a restaurant with eighteen (18) indoor seats at 600 Whitehead Street (RE# 00012901-000100), as presented, is hereby DENIED based on the following findings:

1. The application does not constitute a valid change of nonconforming use under Section 122-32(e), as both the existing and proposed uses are restaurant uses within the same general use category.
2. The proposed addition of indoor seating constitutes an expansion, enlargement, and intensification of a legal nonconforming use, which is prohibited under Section 122-32(d).
3. The proposal increases the intensity and operational scale of the nonconforming restaurant use.
4. The proposed use remains nonconforming and is not permitted at this location within the HRO zoning district.
5. Approval of the request would be inconsistent with the intent and purpose of the HRO zoning district.

**Section 3.** This Resolution shall be effective upon adoption.

**PASSED AND ADOPTED by the Planning Board of the City of Key West, Florida, at a duly noticed public hearing held on April 16, 2026.**

Authenticated by the Chairman of the Planning Board and the City Planner.

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Peter Batty, Planning Board Chairman

Date

Attest:

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Taylor Brown, City Planner

Date

Filed with the Clerk:

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Keri O'Brien, City Clerk

Date