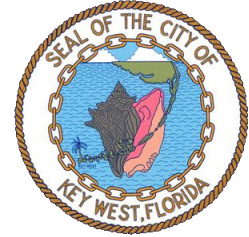


**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chair and Planning Board Members

From: Angela Budde, Planner I

Through: Roy Bishop, Planning Director

Meeting Date: September 19, 2019

Agenda Item: **Change of Nonconforming Use – 612 Fleming Street (RE # 00009160-000000)** – A request for a change of non-conforming 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 within 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

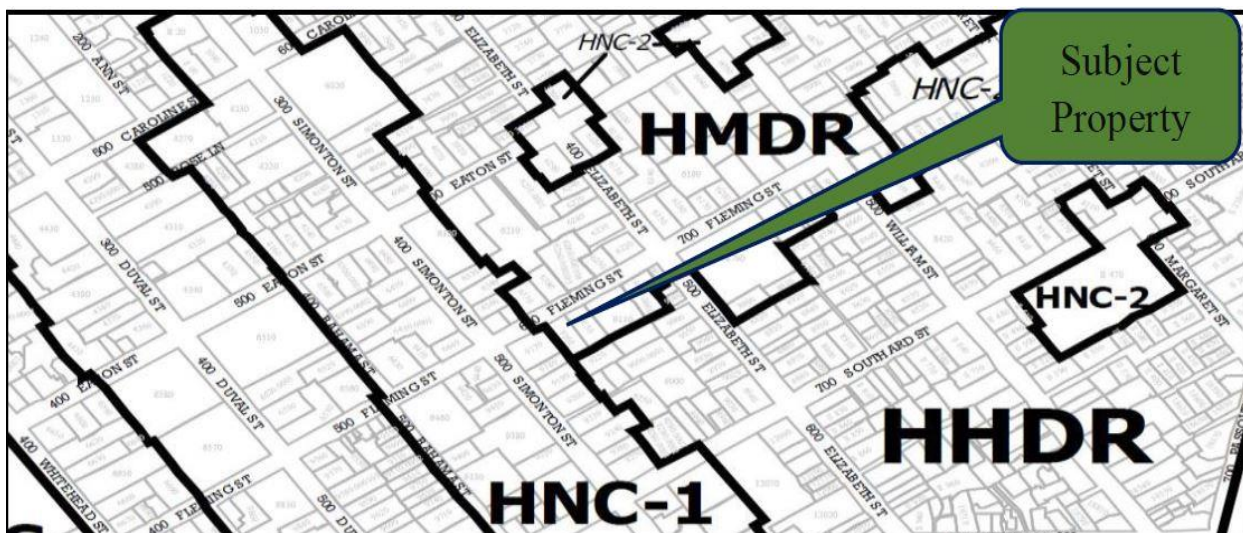
Request: Approval to change former business and professional retail/office uses to yoga/meditation fitness studio with low-intensity commercial retail uses.

Applicant: Delbert Brixey, 614 Fleming Street

Property Owner: Delbert Brixey, 614 Fleming Street

Location: 612 Fleming Street (RE # 00009160-000000)

Zoning: Historic Medium Density Residential (HMDR)



Background:

The property, which is located near the eastern corner of Fleming and Simonton Streets between Simonton and Elizabeth Streets, is a two-story, 2,318-square foot mixed-use residence located within the Key West Historic District. According to Monroe County Property Appraisers records, the building was constructed in 1899 and is recognized as a contributing structure to the Historic District. The property is located within the HMDR Zoning District, which does not allow commercial uses. However, the property had commercial uses that were established prior to the adoption of the current zoning ordinance in 1997, and those nonconforming uses have continued. Despite different zoning ordinances through the decades, there is evidence in Polk Cities Directories, State of Florida Division of Corporations, Monroe County Tax Collector, and the City’s business tax receipts that the property has hosted a variety of commercial uses for over 25 years. According to the City, County and State licensing records, the following businesses have been issued Business tax numbers:

Business Name	Start Year	End Year	Number	Classification
Debra Butler Design Studio	2014	2018	City #29657	Home Furnishings & Accessories
Debra Butler Design Studio	2014	2018	City #29658	Interior Decorator Services
Keys Aerial Productions	2013	2014	City #28697	Aerial Productions (Office Use Only)
Local Bethys Best	2011	2013	City #26422	Interior Design
Art 612, INC	2010	2011	City # 24235	Studio/Gallery, retail; Mail order/wholesale/ 0 to 500 Square Feet
Impressions Unlimited, Inc.	1994	2010	Monroe County # 9867	Advertising Service
Delbert Brixley	1994	2003	City # 228	Non-Transient Residential
Escape Cruises, Inc.	1992	2003	State of Fla. FEI/EIN #65-0382665	Travel services



Request:

The Applicant proposes a change of nonconforming use from business and professional retail/office (interior decorating services and showroom) to a yoga/meditation fitness studio with low-intensity commercial retail use on the first floor of the building for a total of 585-square feet.

Surrounding Zoning and Uses:

North:	HNC-2	Key West Smuggler Company
South:	HHDR	Single-family, two-family and multiple-family residential dwellings.
East:	HNC-2	Key West Sign Company
West:	HNC-1	Duck & Dolphin Antiques Decorative accessories

HMDR Permitted Uses Per City Code Section 122-597:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in section 122-1246

HMDR Conditional Uses Per City Code Section 122-598:

- (1) Group homes with seven to 14 residents as provided in section 122-1246
- (2) Cultural and civic activities.
- (3) Educational institutions and day care.
- (4) Nursing homes, rest homes and convalescent homes.
- (5) Parks and recreation, active and passive.

- (6) Places of worship.
- (7) Protective services.
- (8) Public and private utilities.
- (9) Parking lots and facilities.

Process:

Development Review Committee: August 22, 2019
Planning Board: September 19, 2019
DEO Review Period: Up to 45 days

Analysis – Evaluation for Compliance with The Land Development Regulations:

Pursuant to City Code Section 122-32(e), a nonconforming use of a building or structure may be changed to another nonconforming use if the Planning Board finds that:

(1) The new use is equally or more appropriate to the zoning district; and

“Low-intensity commercial retail” means commercial retail uses that generate less than 50 average daily vehicular trips per 1,000 SF. The applicant is of the assumption that most patrons (85%) will travel on bicycle or on foot. Staff agrees with this assumption given the property’s lack of off-street parking and its proximity to major tourist attractions and Duval Street. Therefore, the proposed use of a fitness studio with low-intensity commercial retail would be more appropriate than the former home furnishings and accessories use and would be equally appropriate as the former retail/office uses.

IN COMPLIANCE.

(2) 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.

Intensity of Proposed Use: Parking

The property would have the same off-street parking requirement of 1 space per 300-square feet. Additionally, there are on-street vehicular and bicycle parking spaces nearby as well as a municipal parking lot. This is a high pedestrian traffic corridor along Fleming Street. The change of use does not involve enlarging the existing building or adding new floor area. Therefore, the need for parking facilities would not be increased.

IN COMPLIANCE.

Intensity of Proposed Use: Traffic

Compared to the prior commercial retail uses, it is anticipated that the proposed use would decrease vehicular traffic to the neighborhood. Therefore, it is anticipated that the proposed use would not increase vehicular traffic to the neighborhood.

IN COMPLIANCE.

Intensity of Proposed Use: Noise, Dust, Fumes and Other Environmental Hazards

The proposed use is not anticipated to increase noise, dust, fumes or other environmental hazards.

IN COMPLIANCE.

Intensity of Proposed Use: Drainage

No changes are proposed to the exterior of the building or property that would affect drainage. The change of use would not have an adverse impact on drainage.

IN COMPLIANCE.

Recommendation:

Based on the above analysis of the standards for considering changes of nonconforming uses in Section 122-32(e) of the Land Development Regulations, the Planning Department recommends the request be APPROVED with 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 paid within 30 days of effective date of the proposed Resolution.