

RESOLUTION NO. _____

(17-AP-57a)

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, CONSIDERING THE APPEAL OF A PLANNING AND DEVELOPMENT BOARD DECISION AFFIRMING THE ADMINISTRATIVE DECISION OF STAFF DENYING THE RE-ESTABLISHMENT OF A NON-CONFORMING USE (ASSISTED LIVING FACILITY – COOLIDGE HOLDINGS LLC.) LOCATED AT 2057 COOLIDGE STREET, IN ACCORDANCE WITH THE CITY'S ZONING AND LAND DEVELOPMENT REGULATIONS.

WHEREAS, On July 20, 2009, the Planning and Zoning Board, pursuant to Resolution No. 09-S-36, approved a Special Exception with conditions to allow for the establishment of a nonconforming use (Alzheimer's Center) within a lawful nonconforming building located at 2055-2057 Coolidge Street, pursuant to Section 3.12H of the City's Zoning and Land Development Regulations; and

WHEREAS, in April of 2016, the State ceased operations for the Assisted Living Facility and subsequently the property was put up for sale and during this time, in September 2016, an application for a Certificate of Use was submitted; and

WHEREAS, initially, City staff was inclined to deny the application for the Certificate of Use, but the Applicant provided proof that the actions taken by the State were intended to be rectified and that management staff onsite had entered into a contract with another ALF that would be operating the facility, and were therefore not intentionally discontinuing the use and were working on gathering the needed documents/licenses for the establishment; and

WHEREAS, cognizant of the limitations of non-conforming uses, the City granted the approval of the Certificate of Use upon the Applicant obtaining all applicable licenses and re-establishment of the use within 90 days of said approval; and

WHEREAS, the allowed 90 day time period lapsed without re-establishment of the use; and

WHEREAS, in December of 2016, a new application was submitted for the same use, and after several meetings with the Applicant, in February 2017, the City deemed the use discontinued as no proof of establishment of said use was provided; and

WHEREAS, during the time frame between December 2016 and February 2017, additional research by staff discovered that the use was discontinued, noting the property as vacant; and

WHEREAS, Section 3.12 A. of the City's Zoning and Land Development Regulations states as follows:

*The lawful nonconforming use of a building maybe continued, although such use does not conform to the regulations of the applicable zoning district within which the building is located. Any such use may be changed to a use of the same or more restrictive nature as determined by the Director of the Department of Planning and extended throughout the building, provided no structural alterations, except those required by law, are made therein and the cubical contents of the building are not enlarged. **If such nonconforming use is discontinued for a period of three months or more, any further use of said building shall be in conformity with the regulations of the applicable zoning district unless otherwise approved by the Planning and Development Board pursuant to division G. of this section within 24 months abandonment.** A lawful nonconforming use is reestablished by the approval of a Special Exception by the Planning and Development Board (emphasis supplied); and*

WHEREAS, Article 5, Section 5.7.D. provides that "any party in interest aggrieved by an administrative decision by the Director authorized under this Article, may file an appeal to the applicable Board."; and

WHEREAS, 2057 Coolidge Associates, LLC filed its appeal of the administrative decision to the Planning and Development Board regarding City staff's determination that the nonconforming use was discontinued, and believes that the City's interpretation of the Zoning and Land Development Regulations relative to the proposed use is not adequate; and

WHEREAS, in accordance with Section 5.7.D.2, "the Planning and Development Board may reverse or affirm, wholly or in part, or may modify the administrative decision appealed as is deemed to be proper, and to that end shall have all the powers of the official from whom the appeal is taken."; and

WHEREAS, the Planning and Development Board held a duly noticed quasi-judicial hearing on March 8, 2018, to hear the appeal, and following the Planning Division's staff report, the Appellant's appeal application and all submitted written and oral testimony during the public hearing, the Planning and Development Board, based upon the competent substantial evidence presented at the hearing, affirmed the City's determination that the proposed nonconforming use has been discontinued in accordance with section 3.12 A. of the City's Zoning and Land Development Regulations; and

WHEREAS, Article 5, Section 5.7.A. provides that “any person who appeared on the record at the Board meeting and who has filed written notice of his/her position prior to the Board's ruling may file an appeal of an adverse ruling.”; and

WHEREAS, in accordance with Article 5, Section 5.7 of the Zoning and Land Development Regulations, 2057 Coolidge Associates, LLC. filed its appeal of the March 8, 2018 Planning and Development Board decision; and

WHEREAS, pursuant to Section 5.7. of the City’s Zoning and Land Development Regulations, “the decision of the Board may be appealed to the City Commission” and “the appeal will be heard de novo and the same criteria applied by the Board below are applicable to the City Commission in hearing the matter;” and “a reversal or modification of a ruling of the Board, including those relating to stipulations or conditions, shall require a five-sevenths vote of the City Commission. An affirmance of a ruling of the Board shall require a three-sevenths vote of the City Commission.”; and

WHEREAS, the City Commission held a duly noticed public quasi-judicial hearing on May 16, 2018, to consider the appeal, and the following review of the Planning Division’s staff report, the Appellant’s appeal application and all submitted written and oral testimony during the public hearing, the City Commission based upon the competent substantial evidence presented at the hearing have determined that the appeal should be approved/approved with conditions/denied.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That the foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are incorporated in this Resolution.

Section 2: That following review of the Planning Division’s staff report, the Appellant’s application and supporting documents and materials, all submitted written and oral testimony received during the public quasi-judicial hearing, the appeal is hereby approved/approved with conditions/denied:

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A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, CONSIDERING THE APPEAL OF A PLANNING AND DEVELOPMENT BOARD DECISION AFFIRMING THE ADMINISTRATIVE DECISION OF STAFF WHICH DENIED THE RE-ESTABLISHMENT OF A NON-CONFORMING USE (ASSISTED LIVING FACILITY – COOLIDGE HOLDINGS LLC.) LOCATED AT 2057 COOLIDGE STREET, IN ACCORDANCE WITH THE CITY’S ZONING AND LAND DEVELOPMENT REGULATIONS.

Section 3: That this Resolution shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED this _____ day of _____, 2018.

RENDERED this _____ day of _____, 2018.

JOSH LEVY, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC, CITY CLERK

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY for the use and reliance
of the City of Hollywood, Florida, only.

DOUGLAS R. GONZALES, CITY ATTORNEY