



## Legislation Text

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**File #:** R-2018-205, **Version:** 3

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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 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. (17-AP-57a).

Staff Recommends: Denial of the Appeal.

### Explanation:

2057 Coolidge Associates, LLC. (Applicant) filed an application to appeal a Planning and Development Board decision pursuant to Section 5.7 of the Zoning and Land Development Regulations. As outlined by this section, Board Decisions shall be appealed to the City Commission.

On March 8, 2018, the Planning and Development Board denied the Applicant's appeal of an administrative decision regarding the re-establishment of a non-conforming use (Assisted Living Facility - Coolidge Holdings LLC.) located at 2057 Coolidge Street. As stated in their Application Package (Attachment I), the Applicant believes the City's interpretation of the Zoning and Land Development Regulations relative to the decision of the use is not adequate.

In July of 2009 a Special Exception was granted with conditions for the establishment of a non-conforming use (Alzheimer's Center) within a lawful non-conforming building located at 2057 Coolidge Street (Resolution 09-S-36). The property is approximately half an acre and is located within the Regional Activity Center (RAC), which was recently rezoned in October of 2016.

In April of 2016 the State ceased operations for the Assisted Living Facility (ALF). Subsequently, the property was put up for sale; during this time in September of 2016 an application for a Certificate of Use was submitted. Initially, Staff was inclined to deny the Certificate of Use, however the Applicant provided proof that actions taken by the state were intended to be rectified and that management staff onsite had entered into a contract with another ALF who would be operating the facility as same, therefore not intentionally discontinuing the use and were working on gathering the needed documents/licenses for establishment. Cognizant of the limitations of non-conforming uses, the City granted the approval of the Certificate of Use contingent upon the Applicant obtaining all applicable licenses and establishment of the use within ninety days of said approval. The allowed time period lapsed without establishment of the use. In December of 2016, a new application was submitted for the same use; after several meetings with the Applicant and Staff, in February 2017 the City deemed

the use discontinued, as no proof of establishment was provided. In fact, during the time between the December 2016 and February 2017 time period, additional research by Staff discovered that the use was discontinued as no water usage activities were found and Fire Inspections were conducted, noting the property as vacant.

The request is for an Appeal of an administrative decision regarding the re-establishment of a non-conforming use. As stated in their Application Package (Attachment I), the Applicant believes the City's interpretation of the Zoning and Land Development Regulations relative to the proposed use is not adequate. Appeals of administrative decisions shall be pursuant to Section 5.7 of the Zoning and Land Development Regulations (Attachment II) which states:

*Appeals of an administrative decision by the Director. Any party in interest aggrieved by an administrative decision by the Director authorized under this Article, may file an appeal to the applicable Board. Such appeal must be filed within 30 days of the administrative decision, shall be in writing, on a form provided by the Department of Planning and Development Services and shall specify the grounds for such appeal. The appeal form shall be accompanied by the applicable fee as established by resolution of the City Commission. Upon receiving an appeal from an administrative decision, the Department of Planning and Development Services shall schedule a public hearing before the applicable Board. Notice of the public hearing shall be as prescribed in § 5.7*  
<<http://library.amlegal.com/nxt/gateway.dll?>

Based upon evidence and additional opportunities to establish the use within the additional 90 days granted by the city and based upon the Applicants failure to comply, the City has deemed the use as discontinued, therefore all administrative opportunities by the City to establish the use have exhausted.

The 30 day deadline to appeal Staffs determination of February 2017 lapsed, therefore the applicant has stated they are filing an appeal from the decision made in June 2017 from an email that the City Attorney replied to agreeing with Staff's original decision from February 2017. It is the City's position that the 30 day deadline expired, as such it is not eligible for appeal, and the affirmation of Staff's decision made by the City Attorney cannot be appealed. In the interest of allowing the Applicant additional due process the application was administered. It continues to be Staff's position that the allowed time period as per the Zoning and Land Development Regulations to re-establish the use in an administrative capacity has lapsed.

The Applicant was informed to apply for a Special Exception for the re-establishment of a non-conforming use as they fall within section 3.12.A of the Zoning and Land Development Regulations (Attachment II) which states:

*A. Nonconforming use. The lawful nonconforming use of a building may be 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 of the abandonment. A lawful nonconforming use is reestablished by the approval of a Special Exception by the Planning and Development Board.*

The Applicant has chosen the route of an appeal instead of applying for the Special Exception. More recently the Applicant has expressed the desire to establish a Residential Detoxification Center which will be deemed a Social Service Facility per the Zoning and Land Development Regulations and therefore would not be permitted in this Zoning District. This use is not considered to be similar to an ALF and therefore would not be eligible for the re-establishment of the previous use.

ATTACHMENT I: Appeal Application

ATTACHMENT II: Planning and Development Board Staff Report and Backup

ATTACHMENT III: Planning and Development Board Resolution

Recommended for inclusion on the agenda by:

Dr. Wazir Ishmael, City Manager

Gus Zambrano, Assistant City Manager/Sustainable Development

Shiv Newaldass, Interim Director, Development Services

Leslie A. Del Monte, Planning Manager, Development Services