
Sec. 82-261. Re-establishment of abandoned nonconforming use.

- (a) The planning commission is hereby authorized to consider requests for the re-establishment of nonconforming uses that have been abandoned pursuant to subsection 126-152(d). Application and hearing for such a request shall be as for a variance, and shall be approved by the planning commission upon a finding that all of the following conditions exist:
- (1) That loss of the nonconforming use has resulted in unreasonable hardship to the applicant;
 - (2) That the nonconforming use was not knowingly abandoned and that there was no intent to abandon such use;
 - (3) That for nonconforming uses other than resort housing the applicant did not acquire the property after abandonment of the nonconforming use;
 - (4) That re-establishment of the nonconforming use would be compatible with and would not be detrimental to the quiet and peaceful use and enjoyment of surrounding properties and uses; and
 - (5) That any of the following conditions exists:
 - a. The structure in which the nonconforming use was conducted is not reasonably adaptable to and has not been used for any permitted use;
 - b. For nonconforming resort housing uses, that adjacent residential uses are primarily permitted or nonconforming resort housing uses; or
 - c. That the abandoned nonconforming use was originally established pursuant to conditional use approval, specific amendment to the Sanibel Plan, or other legislative or quasi-judicial action of the city specifically approving such use, upon which the applicant relied to his/her detriment.
- (b) Pursuant to this section, only the specific abandoned nonconforming use may be re-established. No other use of the property may be authorized except a use permitted in the district.
- (c) In authorizing re-establishment of an abandoned nonconforming use pursuant to this section, the planning commission may attach conditions thereto as provided in section 82-137.

(Ord. No. 85-26, § 1(III.H.5), 11-27-1985; Ord. No. 19-001, § 3, 4-2-2019)