ZONING INTERPRETATION RECORD

Subject of Interpretation:
Requirements for non-conforming use of a residential property

Zoning Ordinance Section Number:
N/A

Title of Section:
N/A

Cause for Interpretation:
To determine if ‘grandfathering’ of a non-residential use at a location within the RM-4 (Multiple Residence) district is allowed.

Interpretation:
The purpose of the Multiple Residence Districts is to provide areas for a variety of housing types at densities of up to 43 units per gross acre. Designators (-2, -3, -4, and -5) are used to denote variations in the maximum allowed development intensity. Appropriate types of dwelling units include small-lot single residences, townhouses, cluster housing, and multiple residence housing. This district also provides for residential care facilities, residential home-based day care, group residential homes, manufactured home parks and subdivisions, recreational vehicle parks and subdivisions, park and recreation facilities, limited and small-scale residential support activities, and civic and institutional uses such as churches and places for religious assembly that are appropriate in a residential environment. At this time, there are no unresolved zoning, sign, nuisance or building permit violations that we are aware of at this property mentioned by the applicant.

As part of their inquiry, they asked about the possibility of the ‘grandfathering’ of a non-residential use at the location they inquired about. The RM-4 zoning district at one time allowed offices uses, but was modified in 1988 to focus primarily multiple residence activities, such as apartments. It has never allowed a retail land use. This 1988 Council action made any office uses established previous to 1988, ‘legal, but non-conforming’, a practice sometimes called ‘grandfathering’. However, a legal, non-conforming use is required to be in continuous operation. If it is vacated for a period of time, one-year, the ‘grandfathered’ right is forfeited. The City’s building permit records show that a plumbing permit was issued to an office-use at this location in 1998. Therefore, we are willing to consider that the non-conforming office was still considered ‘grandfathered’ activity up to that point. Evidence will need to be seen of the continuation of the office-use at this location since 1998. Once that evidence has been presented, then a letter of confirmation for the grandfathered office use will be issued. No additional fee will be needed for this confirmation service provided the necessary evidence of continuous activity has been presented.