ZONING INTERPRETATION RECORD

Subject of Interpretation:
Permitted Uses in TCC District

Zoning Ordinance Section Number:
11-8-6(B)1(R); 11-1-3

Title of Section:
Development Standards-Downtown Core District: Landscaping: Conformance with U Designator Standards; Structure of Zoning Regulations

Cause for Interpretation:
The Zoning Administrator (ZA) wanted to address a misunderstanding with an applicant dating back to 2003 about the potential of rebuilding the project in the event that an “act of God” or some other disaster was to take place. As stated previously in a 2003 letter, the real property is currently zoned Town Center Core (TCC), and was the subject of two cases that specifically reviewed the development of that particular site: an approval of the original site plan and building height and a subsequent Downtown Development Committee case heard in 2003 which approved modifications to site plan and elevations. The Staff Report clearly notes that the property was being utilized at that time as both senior apartments and an assisted living facility. It is to the understanding of the ZA that the property continues to be used in the same manner as what was described in 2003.

Interpretation:
The ZA concurs with the previous interpretation as described in the 2003 Staff Report, which is repeated, as follows: an assisted living facility is considered a permitted land use in the TCC District. This determination is based on the description of the land use stated in the 2003 staff report, and the authority given to the Zoning Administrator under Mesa Zoning Ordinance § 11-8-6(B)1(R), which allows them to make such “similar use” determinations. No additional public hearings or reviews are needed to confirm that the current use of the property as an assisted living and senior apartment is permitted “by-right” in the TCC District, provided it continues to operate as described in the 2003 Staff Report.

In addition, and contrary to the 2003 letter, the ZA wants to clarify that because they have determined that the current land use on the property is an allowed use within the TCC District, the use is not a legal non-conforming use thereby not calling into question the applicability of Section 11-1-3 of the Zoning Ordinance relative to non-conforming uses. In other words, and under the current Zoning Ordinance, one would presently have the right to rebuild the project under the same standards and criteria that was previously approved.