ZONING INTERPRETATION RECORD

Subject of Interpretation:
- Requirements for Group Home for the Developmentally Disabled

Zoning Ordinance Section Number:
- ARS §36-582.J

Title of Section:
- Residential facilities; zoning; notice; appeal

Cause for Interpretation:
- The applicant wanted to determine if a property can be used as a group home for the disabled

Interpretation:
- The site is located within the RM-3 zoning district, which permits multiple residence uses. It has been the subject of a specific request to annex the site into the Mesa corporate limits, to amend the Mesa General Plan to authorize a multiple residence land use, and to rezone the site expressly for the purpose of allowing a Developmentally Disabled Group Home at this location.

The City was approached by MARC in 2009 with regard to possibly annexing this site into the Mesa corporate limits. The Mesa City Council was receptive, and approved the annexation request (Ordinance 4943). Shortly after annexation, the City of Mesa initiated a zoning case to rezone this location from a Maricopa County R1-8 zoning district to City of Mesa R1-9, in compliance with requirements of Arizona Revised Statutes, and then followed that first zoning case with a subsequent request to rezone the site from Mesa R1-9 to R-3. This second case was also approved by the City Council (Zoning Case Z09-008, Ordinance 4948). As described above, Zoning Case Z09-008 was presented to the City Council by MARC expressly for the purpose of authorizing a group home facility on this site for the Developmentally Disabled. I have attached the case file for this zoning case to this letter.

The present RM-3 district is the result of a recent update to the Mesa Zoning Ordinance in which every site within Mesa formerly in the R-3 district was reclassified as being within a newly renamed RM-3 zoning district. All uses and conditions of the 2009 zoning case carry forward, as the change from R-3 to RM-3 is primarily a change in nomenclature.

I would like to also point out ARS §36-582.J, which is organized under Chapter 5.1, Article 2 of Title 36 of the Arizona Revised Statutes. This Chapter and Article deal specifically with the Developmentally Disabled. The subsection states:

J. Other residential facilities which serve seven or more persons shall be a permitted use in any zone in which residential buildings of similar size, containing rooms or apartments which are provided on a continuing basis for compensation, are a permitted use. Nothing in this section shall be construed to prohibit any city or county from requiring a conditional use permit in order to maintain a residential facility serving seven or more persons, provided...
that no conditions shall be imposed on such a facility which are more restrictive than those imposed on other similar dwellings in the same zones.

It has been determined that this section applies to the City’s administration of its zoning ordinance, and that the City is to define the use of this site by the Developmentally Disabled as it would any other typical multiple residence use that would be otherwise authorized for this location.

At this time, there are no unresolved zoning, sign or nuisance violations at this location. Also, the Mesa City Code is amended from time to time. Should it be amended in the future, such amendments may render this site as "non-conforming", however such sites may continue in the manner and to the extent that existed at the time of the amendment.