



**PLANNING DIVISION  
STAFF REPORT**

**Board of Adjustment**

**January 15, 2020**

CASE No.: **BOA19-00847**

CASE NAME: **550 West 9<sup>th</sup> Street**

Owner's Name:	Rosenbaum Enterprises LLC
Applicant's Name:	Incredible Contracting LLC
Location of Request:	550 West 9 <sup>th</sup> Street
Parcel Nos:	135-16-037A
Nature of Request:	Allow an enlargement of a nonconforming structure for a second-floor addition to an existing multi-residence
Zone District:	Multiple Residence (RM-3)
Council District:	1
Site size:	9,768 square feet or .22 ± acres
Existing use:	Multiple Residence (four units)
Staff Planner:	Charlotte Bridges
Staff Recommendation:	APPROVAL with conditions

**HISTORY**

On **July 21, 1958**, the property was annexed into the City of Mesa (ORD #353) as part of a larger annexation of 706± acres.

On **November 16, 1982**, the City Council approved a rezoning request from R-2 to R-3 (ORD #1542) to allow the development of single family subdivision.

In **1982**, City of Mesa records show that a building permit #55141 was issued for the construction of four-unit, multiple residence structure on the subject property.

In **2019**, a fire partially destroyed the existing structure. The narrative provided by the applicant indicates there was substantial water and fire damage to the structure.

## PROJECT DESCRIPTION

### **Background**

This request is for a Special Use Permit (SUP) to allow for an enlargement of a nonconforming structure to allow a second-floor addition to an existing multi-residence in the RM-3 District. The requested SUP would allow for a second-floor addition which would add 725± square feet to each of the existing four dwelling units. The addition of the second floor will not increase the number of units on the subject site. Per Section 11-36-7(B) of the Mesa Zoning Ordinance (MZO), alterations and enlargements that extend into a nonconforming yard or height limit may be approved through a Special Use Permit where the alteration or enlargement would not:

1. Further reduce any existing nonconforming yard;
2. Exceed applicable building height limits;
3. Further reduce existing nonconforming lot coverage or floor area ratio requirements; and
4. Increase the required number of off-street parking spaces unless parking is provided under current standards for the addition of the use only.

Per Table 11-5-5 of the MZO, a single-story structure with three or more units in the RM-3 District requires a minimum 20-foot setback for each interior side yard and the rear yard. At the time of construction, in 1982, the subject site met the development standards that were in place at that time with a 7.98 and 11-foot interior side yard setbacks and 25± rear yard setback. The subject site is therefore considered legal non-conforming because the existing side yards do not meet current MZO requirements. The existing 25.36± foot rear yard setback complies with current MZO requirements.

Per Table 11-5-5 of the MZO, a multiple story structure with three or more units in the RM-3 District requires a minimum 15-foot setback per story for each interior side yard and the rear yard. Therefore, in order for the applicant to construct a second-story addition onto the existing structure and conform to current MZO requirements, a 30-foot setback would be required for the sides and rear yards.

The proposed second story addition is in-line with the footprint of the existing structure and does not further reduce the existing non-conforming side yards. While the 25.36± foot rear yard meets the required 20-foot rear yard for a one-story structure it does not meet the 30-foot rear yard required for a two-story structure per Table 11-5-5 of the MZO for the RM-3 District, and therefore creates a new non-conforming rear yard. Staff is recommending a condition of approval that the proposed plans be revised to provide the minimum 30-foot rear yard setback to the second floor addition, per the requirements of Table 11-5-5 of the MZO for the RM-3 District, so as to not increase the site's non-conformities.

### **General Plan Character Area Designation and Goals**

The Mesa 2040 General Plan character area designation on the property is Neighborhood. Per Chapter 7 of the General Plan, the primary focus of the Neighborhood character type is to provide safe places for people to live where they can feel secure and enjoy their surrounding community.

The site is also within the West Mesa Economic Activity Area as defined in Chapter 5 of the General Plan. The primary unifying element of the West Mesa Economic Activity Area is the opportunity for redevelopment and intensification based on expansion of transit services. While the redevelopment of the subject site is not an intensification, its redevelopment is consistent with the goals of the West Mesa Economic Activity Area and will support the stabilization of an older, existing neighborhood through its reinvestment.

**Site Characteristics:**

The subject site, located on the north side of 9<sup>th</sup> Street and west of Country Club Drive, is .22± acres or 9,678 square feet in area and is zoned Multiple Residence (RM-3). The site contains a 2,942 square foot building with four, 800± square foot units. Parking spaces for the existing units are located on the south side of the existing building and are directly accessed from West 9<sup>th</sup> Street. A total of six parking spaces are provided on site. Per Table 11-32-3(A) of the MZO, multiple residence projects, not within a quarter mile radius of a bus rapid transit or light rail station, are required to provide 2.1 parking spaces per dwelling unit. Based on current MZO requirements, a total of nine parking spaces are required for this development. Section 11-31-1(B)(1) of the MZO, states that if an expansion of a use, or expansion of floor area creates an increase of five percent (5%) or more in the number of required off-street parking spaces, based on the approved and constructed development, off-street parking shall be provided according to the provisions of Chapter 32: On-Site Parking, Loading and Circulation of the MZO. In this case, while the use and floor area of the existing units are expanding, the number of units on the property is not increasing. Therefore, based on the provisions of Section 11-31-1(B)(1) of the MZO, noted above, no additional off-site parking spaces are required for this project.

The landscape improvements on the subject site do not meet current MZO landscape requirements. Section 11-33-1(B)(2) of the MZO states that when there is a change in the distinguishing traits or primary features of the building or land use as evidenced by increased parking requirements or a change in the building occupancy designation, the standards of Chapter 33 of the MZO for landscaping shall apply. In this case, no additional parking spaces are required, and the building occupancy remains the same. Therefore, based on the provisions of Section 11-33-1(B)(2) of the MZO, no new landscape improvements are required for this project. However, over time the landscape material originally approved with the 1982 permit has been removed or has died. The maintenance of the original landscaping is a requirement of Section 11-33-2(I)(3) of the MZO, therefore staff recommends a condition of approval that requires the replacement of dead or missing landscape material per the landscape plan approved by the 1982 building permit (included in the packet) or that a revised landscape plan that provides landscape material “equal to or better than” the landscape material approved with the 1982 plan be submitted and reviewed for approval.

**Surrounding Zoning Designations and Existing Use Activity:**

<b>Northwest RM-3 Community Center</b>	<b>North RM-3 Existing Multi-Residence</b>	<b>Northeast RM-3 Existing Multi-Residence</b>
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West RM-3 Community Center	Subject Property RM-3 Existing Multi-Residence	East RM-3 Existing Multi-Residence
Southwest (Across west 9 <sup>th</sup> Street) RM-3 Existing Multi-Residence	South (Across west 9 <sup>th</sup> Street) RM-3 Existing Multi-Residence	Southeast (Across west 9 <sup>th</sup> Street) RM-3 Existing Multi-Residence

**Mesa Zoning Ordinance Requirements and Regulations:**

Per Section 11-36-7(B) of the Mesa Zoning Ordinance (MZO), alterations and enlargements that extend into a nonconforming yard or height limit may be approved through a Special Use Permit where the alteration or enlargement would not:

1. Further reduce any existing nonconforming yard;

*The second-floor addition is in-line with the footprint of the existing structure, and therefore does not further reduce the existing non-conforming side yards. The existing structure's 25.36± rear yard setback complies with current MZO RM-3 District standards. The proposed second story addition does not comply with the RM-3 District required rear yard setback of 30 feet, which creates a new non-conformity. Consequently, the staff recommendation includes a condition of approval to revise the site plan for the second floor addition to comply with Table 11-5-5 Development Standards of the MZO, minimum rear yard requirement of 15-feet per story in the RM-3 District for a total of 30'.*

2. Exceed applicable building height limits;

*The maximum allowed height in the RM-3 District is 40 feet. Per the project narrative the proposed height of the structure with the 2<sup>nd</sup> floor addition, is 25± feet, which meets current MZO requirements.*

3. Further reduce existing nonconforming lot coverage or floor area ratio requirements;

*The plans provided by the applicant indicate that the existing lot coverage is 31%±. Per Table 11-5-5 Development Standards – RM Residential Multiple Dwelling Districts of the MZO, the minimum lot coverage is 50% in the RM-3 District. There are no proposed changes to the existing lot coverage.*

4. Increase the required number of off-street parking spaces unless parking is provided under current standards for the addition of the use only.

*The proposed second-floor addition increases the amount of livable area for each of the existing four units. Since, no new units are being created, no additional off-street parking spaces are required in conjunction with this request.*



### **MZO 11-70-5: Special Use Permit**

Section 11-70-5 of the Mesa Zoning Ordinance (MZO) provides required findings for approval of a SUP. To approve the request, the Board must find the following criteria are met:

- A. Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies;

***This multiple residence use is located in the Neighborhood character type of the Mesa 2040 General Plan and within the West Mesa Economic Activity Area. The redevelopment of this site helps to maintain and revitalize the existing neighborhood and is consistent with the 2040 General Plan.***

- B. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the District where it is located and conform with the General Plan and with any other applicable City plan or policies;

***The multiple residential use conforms with the uses allowed in the RM-3 District; the proposed second-floor addition is consistent with the character of the area and contributes to the revitalization of the neighborhood.***

- C. The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City; and

***The proposed project is consistent with the scale of development in the surrounding neighborhood and therefore will not be injurious or detrimental to the adjacent or surrounding properties in the area, neighborhood or to the general welfare of the City***

- D. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.

***The proposed project is served by existing City of Mesa utilities and public infrastructure.***

#### Findings

- A. The existing 4-unit multiple residence was constructed in 1982.
- B. The existing multiple residence structure is considered “existing and legal nonconforming” due to nonconforming side yard setbacks.
- C. The proposed second-floor addition is in-line with the footprint of the existing structure and does not further reduce the existing nonconforming side yards.
- D. The proposed second-floor addition, with staff recommendations, meets the criteria of Section 11-36-7(B) of the MZO to request a SUP to allow alterations and enlargements that extend into a nonconforming yard.

- E. This request conforms with the criteria for the granting of a SUP as outlined in Section 11-70-5 of the Mesa Zoning Ordinance.
- F. This multiple residence is located in the Neighborhood character type of the Mesa 2040 General Plan and in the West Mesa Economic Activity Area. The proposed second-floor addition is consistent with the policies of the General Plan for residential neighborhoods.
- G. The project is consistent with the purposes of the RM-3 District.
- H. The proposed project is consistent with the scale of development of the surrounding neighborhood and will not be detrimental or injurious to the surrounding properties, the neighborhood or the City.
- I. The proposed project is served by existing City of Mesa utilities and public infrastructure.

### **Neighborhood Participation Plan and Public Comments**

The applicant mailed the required notification letters to all property owners within 500 feet of the site. As of writing this report, staff has not been contacted by any resident to express support or opposition to the request.

### **Staff Recommendations:**

Based on the application received and the preceding analysis, staff finds the request conforms to the criteria for the enlargement of a nonconforming structure as outlined in Section 11-36-7(B) of the MZO as well as the review criteria for a SUP outlined in Section 11-70-5 of the MZO; and therefore, recommends approval with the following conditions:

### **Conditions of Approval:**

1. *Compliance with site plan as submitted, except as modified by the conditions of approval.*
2. *Compliance with all City development codes and regulations, and all requirements of the Development Services Department regarding the issuance of building permits.*
3. *Prior to the issuance of a building permit for the subject site the following items shall be provided to City of Mesa Planning staff for review and approval:*
  - a. *A revised site plan showing the minimum rear yard setback of 30-feet to the second floor addition per Table 11-5-5 Development Standards of the MZO for the RM-3 District.*
  - b. *A landscape plan showing the replacement of dead or missing landscape material per the approved 1982 landscape plan with building permit #155141 or landscape material that is "equal to or better than" the material approved with the 1982 building permit.*