



**ATTORNEY WORK PRODUCT
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CITY ATTORNEY'S OFFICE

TO: Lehi City Council

FROM: Ryan V. Wood, City Attorney

DATE: January 27, 2020

RE: Parkview Cottages Preliminary Subdivision Approval

Code References:

Lehi Development Code Section 17.040(L):

Whenever the Planned Unit Development site is adjacent to or contiguous with to a lower density residential or agricultural district, then for that portion of the Planned Unit Development site adjacent to or contiguous with the lower density residential or agricultural district, all yard and setback requirements of the adjacent or contiguous zoning district shall apply.

Lehi City Development Code Chapter 39:

“Adjacent” means:

All properties immediately contiguous to a development site, including those that are separated from the site only by a road or other right-of-way or easement.

Utah Code Section 10-1-104(2):

“Contiguous” means:

(a) if used to described [sic] an area, continuous, uninterrupted, and without an island of territory not included as part of the area: and

(b) if used to describe an area's relationship to another area, sharing a common boundary.

Analysis

The term “adjacent” is not defined in state code but is defined in the development code. Conversely, state code defines the term “contiguous” but the development code does not. In state code, “adjacent” is the broader term and is often used when referring to something (usually something other than a piece of property) being “nearby” or “next to” something else. “Contiguous” is the more specific term and is used either when referring to a continuous area of

property (like in the context of an annexation) or when referring to two parcels of land that share a common boundary as the definition describes.

In city code the term “contiguous” is used is consistent with the definition found in state code. The term “adjacent” however, is problematic. City code uses the term “adjacent” differently depending on the context. The definition of “adjacent” found in Chapter 39 seems quite narrow and nearly duplicative of the definition of the term “contiguous” found in state code. On the other hand, there are also uses of the term “adjacent” in the development code that only make sense when the more common definition of “nearby” or “next to” are applied. Here are a few examples:

- “a strip *adjacent* to and paralleling a road or railroad right-of-way”
- service-oriented businesses that are compatible with the *adjacent* neighborhoods
- uses that produce no appreciable impact on *adjacent* properties
- buildings *adjacent* to single family detached units
- lighting shall be screened...to prevent glare onto *adjacent* properties
- a buffer between residential and non-residential uses within and *adjacent* to the PC Zone
- compatible with the character of existing structures...or *adjacent* to individual landmark sites
- including lines *adjacent* to or affected by the proposed subdivision
- decrease privacy to *adjacent* property owners
- between the area covered by the Area Plan and *adjacent* land uses
- transitioning housing types when *adjacent* to different land uses

These examples assume a broader definition than the one listed in Chapter 39.

So which version of the definition should be applied here? Because Section 17.040(L) refers to properties that adjoin or share a common boundary, it seems appropriate to apply the more specific definition found in Chapter 39. This is consistent with the way Section 17.040(L) has been applied in every other Planned Unit Development in the city’s collective memory. It is also consistent with the purpose of this section of the code which is to provide a transition between a PUD and adjacent/contiguous residential development, while still preserving the flexibility allowed for in a PUD.

Recommendation

It is recommended that the city enter into a development agreement with the applicant to clarify that the city will apply the code in this case consistent with the way it has been applied in every other prior PUD in the city. This approach fulfills the purposes of Section 17.040(L) and ensures fairness for the applicant who was directed to submit an application consistent with this historical interpretation. It also preserves the single-family character of the project which was an essential part of the applicant’s approval.